U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 34294187

Date: JAN. 28, 2025

Appeal of Nebraska Service Center Decision

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

The Petitioner, an administrative services and facilities 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 (EB-1) 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 the record did not establish that the Petitioner had satisfied at least three of the ten initial evidentiary criteria for this classification, as required. 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.

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,
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> (ii) the alien seeks to enter the United States to continue work in the area of extraordinary ability, and
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> (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 their 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 they must provide sufficient qualifying 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).

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).

II. ANALYSIS

The Petitioner stated she worked in several positions at [redacted] in Afghanistan, including as a customer service agent for A-W-U- from 2007 to 2011, assistant clinic manager at G-M- from 2012 to 2014, human resource manager with S-S- Services during 2015, local linguist operations specialist with M-E- from 2015 to 2018, and operations specialist for the same company during 2020 and 2021. The Petitioner indicated that from 2022 to the present she worked as a medical transportation specialist in New York, and she planned on continue her studies in a master of business administration program. The Petitioner asserted that "with over 16 years of dynamic experience as an Administrative Services and Facilities Manager" she had "thoughtfully developed a well-structured and forward thinking professional plan."

A. Evidentiary Criteria

Because the Petitioner has not indicated or established that she has received a major, internationally recognized award, she must satisfy at least three of the alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)–(x). On appeal, the Petitioner asserts that she meets the 8 C.F.R. § 204.5(h)(3) evidentiary criteria relating to awards (i), judging (iv), and leading or critical role (viii). She does not assert her eligibility on appeal under the following criteria: membership (ii), published material (iii), original contributions (v), authorship (vi), display of work (vii), high salary (ix), or commercial success (x). Therefore, we deem these issues to be waived and will not address these criteria in our decision. *See, e.g.*, *Matter of M-A-S-*, 24 I&N Dec. 762, 767 n.2 (BIA 2009). While we may not discuss every document in the record, we have reviewed and considered each one. Based on our de novo review, we conclude that the Petitioner has not established that she meets the requirements of at least three criteria.

> *Documentation of the alien's receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor.* 8 C.F.R. § 204.5(h)(3)(i).

The Petitioner claimed to meet this criterion based on her receipt of "certifications" from her previous employers, including one for "exceptional performance" to customers and "outstanding support she provided to the A- Europe Team during [redacted] in 2011. The Petitioner also pointed to a "certificate of appreciation" she received in 2018 from her former employer M-E- "for her dedication and support to the employees and staff" as well as another she received from her employer A- Europe for "outstanding service and support to the [redacted] [redacted] during 2009 and 2010. In addition, the Petitioner emphasizes yet another certificate of appreciation she received from her employer G-M- "presented to her by the Vice President of Operations of G-M- in Afghanistan."

In concluding that the Petitioner did not establish this criterion, the Director stated the submitted evidence indicated that the prizes and awards she received were local or regional in nature, related to her job performance, and not nationally or internationally recognized. The Director also indicated that the Petitioner did not articulate or document the criteria used in selecting individuals for these claimed awards.

On appeal, the Petitioner again points to the previously asserted certifications of appreciation and contends that these demonstrate her eligibility under this criterion. More specifically, the Petitioner asserts that her former employer A- Europe is the [redacted] largest retailer, making it a "well known national institution," establishing that the awards she received from this employer were nationally recognized. Likewise, the Petitioner further contends that her other former employer M-E- is also a "well-known national institution" since it provides critical global support for U.S military operations and is recognized as an "organization for excellence."

Upon review, we agree with the Director that the Petitioner did not demonstrate eligibility under this criterion. As noted by the Director on the denial, the Petitioner did not submit sufficient evidence to establish the criteria for being selected for the certificates of appreciation she received from her former employers. Further, the Petitioner did not sufficiently demonstrate that the certificates of appreciation she received were prizes or awards for excellence in her field of endeavor, but rather, only recognition from her employers for performing her job well. For instance, it does not appear that individuals working outside the Petitioner's former employers, including others working in the field, would have been eligible to receive these certificates of appreciation. As such, the Petitioner provides little support for a conclusion that the certificates of appreciation she received from her former employers were nationally or internationally recognized awards reflecting excellence in the field of administrative services and/or facilities management. In fact, the awards themselves provide little indication that they were awarded specifically for excellence in these respective fields.[1]

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[1] The USCIS Policy Manual states the following with respect to eligibility under the prizes and awards criteria:

> Relevant considerations regarding whether the basis for granting the prizes or awards was excellence in the field include, but are not limited to:
> - The criteria used to grant the awards or prizes;
> - The national or international significance of the awards or prizes in the field;
> - The number of awardees or prize recipients; and
> - Limitations on competitors.

Accordingly, the Petitioner did not show that she fulfills this criterion.

> *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 specification for which classification is sought.* 8 C.F.R. 204.5(h)(3)(iv).

The Petitioner asserted that she had "extensively" participated in judging the work of others while working as a human resources manager with a former employer in Afgahnistan, indicating that she oversaw 275 security personnel "assessing their compliance with the U.S. government's CAAMS arming requirements." Further, the Petitioner emphasized her employment with M-E- as an operations specialist where she was tasked with "manag[ing] the [redacted] Program," "evaluat[ing] the linguistic operational capabilities of canidates," and providing "rigorous evaluation of canidates' qualifications and their subsequent monitoring and assessment." In denying the petition, the Director concluded that the Petitioner's former work assigments did not meet the definition of judging the work of others in the same or an allied field of specification for which classification is sought, as required in the plain langauge of the regulation.

On appeal, the Petitioner points to the USCIS Policy Manual and asserts that the definition of a judge is a broad designiation including peer review and "review of commercial, professional, or academic efficiency, competance etc., by others in the same occupation." The Petitioner contends that her review and monitoring of subordinates, secruity personnel, and linquists while employed with previous employers qualifies her under this criterion.

"A determination as to whether a petitoner has acted as the judge of the work of others requires it be in the same or an allied field of specification. The petitioner must show that the petitioner has not only been invited to judge the work of others, but also that the person actually participated in the judging of the work of others in the same or allied field of specialization.[2]"

Here, the Petitioner did not sufficiently establish that the Petitioner's work with her former employers meets the criterion of judging the work of others in the same or an allied field of specification for which classification is sought. The Petitioner was performing job duties and assessing the performance of subordinates and colleagues, as well as the qualifications of candidates for different positions and projects, but not judging the work of others in the same or an allied field of specification as intended by this criterion. For instance, the Petitioner did not demonstrate that her asserted work as a judge came within one specific allied field of specification. The Petitioner vaguely indicates that she holds exceptional ability in the field of administrative services and facilities management. However, the evaluations she performed as a part of her former job responsibilities appeared to be in the fields of military security

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For example, an award available only to persons within a single locality, employer, or school may have little national or international recognition, while an award open to members of a well-known national institution or professional organization may be nationally recognized. Similarly, national or international recognition is most often associated with awards given to individuals at the highest level in a given field.

See 6 USCIS Policy Manual F.2(B)(1).

[2] 6 USCIS Policy Manual, supra, at F.2(B)(1).

compliance and in the latter case linguistics, rather than her asserted field of expertise, also left insufficiently generic.

To illustrate, the criterion requires that the Petitioner be invited to judge the work of others in the same or an allied field of specification for which classification is sought. *Id.* However, there is no indication that the Petitioner's asserted assessments and evaluations were within a specified field as the evidence presented reflects that she was performing evaluations of employees within varying fields of specialization.

For the foregoing reasons, the Petitioner did not establish that she meets this criterion.

B. Summary and Reserved Issue

The record does not establish that the Petitioner meets at least three of the initial evidentiary criteria discussed above. As such, the Petitioner has not met the initial evidentiary requirement of three criteria under 8 C.F.R. § 204.5(h)(3). Therefore, detailed discussion of the remaining asserted criteria at 8 C.F.R. § 204.5(h)(viii) cannot change the outcome of the appeal. Therefore, we reserve and will not address this remaining criterion. *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); *see also Matter of D-L-S-*, 28 I&N Dec. 568, 576–77 n.10 (BIA 2022) (declining to reach alternative issues on appeal where an applicant is otherwise ineligible).

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 do not need to provide the type of final merits determination referenced in *Kazarian*, 596 F.3d at 1119–20. Nevertheless, we advise that we have reviewed the material in the aggregate, concluding that while the Petitioner has achieved some success as an administrative and facilities management employee, the record does not support a conclusion that she established the acclaim and recognition required for the classification sought.

The Petitioner seeks a highly restrictive immigrant classification, intended for individuals already at the top of their respective fields, rather than for individuals progressing toward that goal. Here, the Petitioner has not shown the significance of their 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 Petitioner has garnered national or international acclaim in the field, and they are one of a small percentage who has risen to the very top of the field of endeavor. *See* section 203(b)(1)(A) and 8 C.F.R. § 204.5(h)(2).

For the reasons discussed above, the Petitioner has not demonstrated her eligibility as an individual of extraordinary ability. The appeal will be dismissed for the above stated reasons, with each considered as an independent and alternate basis for the decision.

ORDER: The appeal is dismissed.