U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 36864183

Date: FEB. 13, 2025

Appeal of Nebraska Service Center Decision

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

The Petitioner, a tennis player, requests classification under the employment-based, first-preference (EB-1) immigrant visa category as an alien with "extraordinary ability." *See* Immigration and Nationality Act (the Act) section 203(b)(1)(A), 8 U.S.C. § 1153(b)(1)(A). Successful petitioners for U.S. permanent residence in this category must demonstrate "sustained national or international acclaim" and extensively document recognition of their achievements in their fields. Section 203(b)(1)(A)(i) of the Act.

The Director of the Nebraska Service Center denied the petition. The Director concluded that the Petitioner met two of ten initial evidentiary requirements – one less than needed for a final merits determination. On appeal, the Petitioner contends that she also submitted evidence of her:

- Membership in professional associations in the field that require outstanding achievements of their members as judged by recognized national or international experts; and
- Performance in a leading or critical role for organizations with distinguished reputations.

8 C.F.R. § 204.5(h)(3)(ii), (viii).

The Petitioner bears the burden of demonstrating eligibility for the requested benefit by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). Exercising de novo appellate review, *see Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015), we conclude that she has not met the requisite number of evidentiary criteria for the requested immigrant visa category. We will therefore dismiss the appeal.

I. LAW

To qualify as an alien with extraordinary ability, a petitioner must:

- Have "extraordinary ability in the sciences, arts, education, business, or athletics;"
- Seek to continue work in their field of expertise in the United States; and
- Through their work, substantially benefit the country prospectively.

Section 203(b)(1)(A)(i)-(iii) of the Act.

The term "extraordinary ability" means expertise commensurate with "one of that small percentage who have risen to the very top of the field of endeavor." 8 C.F.R. § 204.5(h)(2). Evidence of extraordinary ability must demonstrate an alien's receipt of either "a major, international recognized award" or satisfaction of at least three of ten lesser evidentiary criteria. 8 C.F.R. § 204.5(h)(3).[1]

If a petitioner meets either evidentiary standard and the requirements at section 203(b)(1)(A)(ii), (iii) of the Act, USCIS must then make a final merits determination. To merit approval, the record – as a whole – must establish a petitioner's "sustained national or international acclaim" and recognized achievements placing them among the small percentage at their field's very top. *See Kazarian v. USCIS*, 596 F.3d 1115, 1119-20 (9th Cir. 2010) (applying this two-step extraordinary ability analysis); *see generally* 6 *USCIS Policy Manual* F.2(B), www.uscis.gov/policy-manual.

II. ANALYSIS

A. Facts

The record shows that the Petitioner, a [redacted] native and citizen, became a member of her country's national tennis team at age 11. As a team member, she competed in the [redacted] Games, [redacted] Championships, and [redacted] Cup, earning multiple medals and national championships. At one time, she ranked [redacted] in the world among junior tennis players, and she has consistently ranked within the top five female players in [redacted] She has competed against some of the top players in the world, including Iga Swiatek, a winner of multiple grand slam tournaments.

The Petitioner played collegiate tennis in the United States as both an undergraduate and graduate. She states that, if allowed to immigrate to the country, she would continue to compete in national and international tournaments.

The record does not indicate – nor does the Petitioner claim – her receipt of a major internationally recognized award. She therefore has to meet at least three of the ten evidentiary criteria at 8 C.F.R. § 204.5(h)(3)(i-x).

The record supports the Director's findings that the Petitioner submitted evidence of her:

- Receipt of lesser nationally or internationally recognized awards for excellence in her field; and
- Status as a subject of published material about her work in the field.

8 C.F.R. § 204.5(h)(3)(i), (iii).

We will now review the Director's findings regarding the additional evidentiary criteria that the Petitioner claims to have met. To satisfy a requirement, she must submit evidence that "objectively

[1] If an evidentiary criterion does not "readily apply" to a petitioner's occupation, they may submit "comparable evidence" to establish eligibility. 8 C.F.R. § 204.5(h)(4).

meets the parameters of the [applicable] regulatory description." *See* 6 *USCIS Policy Manual* F.2(B). "[N]either USCIS nor [the] AAO [Administrative Appeals Office] may unilaterally impose novel substantive or evidentiary requirements beyond those set forth at 8 C.F.R. § 204.5." *Kazarian*, 596 F.3d at 1121 (citation omitted).

B. Membership in Associations

This criterion requires "[d]ocumentation 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).

The Petitioner contends that evidence of her membership on the [redacted] national tennis team satisfies this criterion. She submitted letters from the national technical director of the [redacted] tennis federation and an International Tennis Federation development officer for North and West Africa. The letters confirm the Petitioner's [redacted] team membership. They also state that a committee selects team members based on their national and international rankings, the results of their most recent tournaments, and their standings in the [redacted] tennis federation.

The Director found that the Petitioner did not demonstrate that recognized national or international experts judge members of the [redacted] national tennis team.

On appeal, the Petitioner argues that, as the organization's "chief executive," the national technical director of the [redacted] tennis federation is "**a qualifying national expert in the field**." (emphasis in original). The record, however, does not provide information about his tennis knowledge/ experience, or how he obtained his position. Even if evidence established him as a [redacted] tennis expert, the record does not identify him (or anyone else) as a member of the national team's selection committee. We therefore affirm the Director's finding of insufficient evidence that recognized national or international experts judge [redacted] national team members.

The Petitioner also claims that the Director failed to follow USCIS policy. She notes that "[e]lection to a national all-star or Olympic team might serve as comparable evidence for evidence of memberships in 8 C.F.R. § 204.5(h)(3)(ii)." 6 *USCIS Policy Manual* F.2(B)(1), Comparable Evidence. She also cites a 2023 non-precedent decision of ours, stating:

> Given the level of accomplishment required to secure a place on a country's national team (which competes at an international level), it appears reasonable to conclude that it is the functional equivalent of an association of the type contemplated in the regulations.

USCIS policy, however, did not require the Director to accept the Petitioner's membership on the [redacted] national tennis team as comparable evidence of her membership in a qualifying association. The policy states only that election to a national all-star team "*might serve* as comparable evidence." (emphasis added). Also, our non-precedent decision does not bind us in this matter. *See* 8 C.F.R. § 103.3(c) (requiring USCIS to follow "precedent" decisions in proceedings involving the same issues).

Further, USCIS considers comparable evidence only if a regulatory criterion does not "readily apply" to a petitioner's occupation. 8 C.F.R. § 204.5(h)(4). The Petitioner has not demonstrated, or even asserted, that the membership criterion does not readily apply to tennis players. *See Guida v. Miller*, No. 20-cv-01471-LB, 2021 WL 568850, *9 (N.D. Cal. Feb. 16, 2021) (affirming USCIS' decision that, before the Agency could consider comparable evidence, a petitioning former national team coach had to demonstrate that 8 C.F.R. § 204.5(h)(3)(ii) did not apply to his occupation); *see also* 6 *USCIS Policy Manual* F.2(B)(1), Comparable Evidence.

Thus, the Director did not fail to follow USCIS policy, and the Petitioner did not demonstrate the evidentiary criterion's inapplicability to tennis players. *See Kazarian*, 596 F.3d at 1120 ("The regulations regarding this preference classification are extremely restrictive.") (citation omitted). We will therefore affirm the Director's finding regarding this evidentiary criterion.

C. Performance in a Leading or Critical Role

To meet this requirement, a petitioner must submit "[e]vidence 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).

USCIS first determines whether a petitioner has performed in a leading or critical role for an organization, establishment, or a division or department thereof. *See* 6 *USCIS Policy Manual* F.2(B)(1), Criterion 8. A leading role means that a petitioner is (or was) a leader within the organization, establishment, division, or department. *Id.* In contrast, a critical role means that a petitioner "has contributed in a way that is of significant importance to the outcome of the organization or establishment's activities." *Id.*

Next, USCIS determines whether the organization or establishment for which a petitioner holds or held a leading or critical role has a distinguished reputation. *See* 6 *USCIS Policy Manual* F.2(B)(1), Criterion 8. Relative factors include not only an organization's relative size or longevity but also other factors such as the scale of its customer base or relevant media coverage. *Id.*

The Petitioner submitted evidence of her roles on two U.S. university women's tennis teams and the [redacted] national team. The Director concluded that she did not establish her role on any team as leading or critical. The Director also found insufficient evidence of the claimed distinguished reputations of a U.S. university team and the [redacted] national team.

On appeal, the Petitioner contends that evidence of her role on her undergraduate U.S. university team meets this criterion. She states that she: holds the team record for most matches won during a three-year span; had the most wins on the team for two consecutive years; was the youngest team member ever named to its league's first team; and won the university's sophomore female athlete of the year award.

A letter from the university's tennis director confirms most of the Petitioner's accomplishments. We therefore find that, based on her performance, she had a leadership role on the school's women's tennis team. But we agree with the Director that she has not demonstrated the team's possession of a distinguished reputation. *See Mussarova v. Garland*, 562 F Supp. 3d 837, 851-52 (C.D. Cal. 2022)

(finding that a petitioner did not establish her water polo team's claimed distinguished reputation where the record lacked evidence that the team had "any measurable success . . . in competition") (citation omitted). We will therefore also affirm the Director's finding on this evidentiary criterion.

III. CONCLUSION

The Petitioner has not submitted evidence of her membership in qualifying associations or her performance in a leading or critical role for organizations with distinguished reputations. Thus, she has not met the requisite number of evidentiary criteria for the requested immigrant visa category. We will therefore affirm the petition's denial.

ORDER: The appeal is dismissed.