U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37226099

Date: FEB. 25, 2025

Motion on Administrative Appeals Office Decision

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

The Petitioner, a youth soccer league, seeks to employ the Beneficiary as a soccer coach. The league requests his classification under the employment-based, first-preference (EB-1) immigrant visa category as an alien with "exceptional ability." *See* Immigration and Nationality Act (the Act) section 203(b)(1)(A), 8 U.S.C. § 1153(b)(1)(A). Petitioners sponsoring aliens for U.S. permanent residence in this category must demonstrate the individuals' "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 and dismissed the Petitioner's following motion to reconsider. We dismissed the league's appeal, agreeing with the Director that the league did not meet any of the requested immigrant visa category's ten evidentiary criteria – three less than required. *See In Re: 34891742* (AAO Dec. 3, 2024).

The matter returns to us on the Petitioner's motion to reconsider. The league 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). Upon review, we affirm our prior conclusion that the Petitioner has not met the required amount of evidentiary criteria. We will therefore dismiss the motion.

I. LAW

A motion to reconsider must establish that our prior decision misapplied law or U.S. Citizenship and Immigration Services (USCIS) policy based on the record at the time of the decision. 8 C.F.R. § 103.5(a)(3). On motion, the scope of our review is limited to our prior decision. 8 C.F.R. § 103.5(a)(1)(i), (ii). We may grant motions that satisfy these requirements and demonstrate eligibility for the requested benefit.

II. ANALYSIS

A. The Petitioner Has Not Shown National or International Recognition of the Beneficiary's Award

Our appellate decision noted the Petitioner's submission of an article stating the Beneficiary's receipt of a 2018 [redacted] Award. We found "little information about the award" in the article and insufficient evidence that the award has national or international recognition. *See* 8 C.F.R. § 204.5(h)(3)(i) (requiring "[d]ocumentation of the alien's receipt of lesser nationally or internationally recognized awards for excellence in the field of endeavor").

On motion, the Petitioner contends that we disregarded the "national prominence" of the Beneficiary's award. The league states: "The award was part of a national awards scheme launched in collaboration with the EFL (English Football League) Trust, a prestigious body within UK (United Kingdom) football." The league asserts that we overlooked the evidence's significance. According to the league: "The national scope of this award is evident from the award description and its recognition by the EFL Trust."

The record, however, does not support the Petitioner's contentions. The league submitted a 2018 online article from a Welsh university's website about student awards the school and the soccer league trust conferred. The article states the Beneficiary's receipt of his award among "Year Two students." The article reports that a "Year One" student also won a [redacted] Award that year. According to the article, the Beneficiary "has used his experiences to develop and promote valuable and enjoyable learning opportunities with learners to enhance their football ability within and around the Portsmouth [England] community."

The online article does not show recognition of the Beneficiary's award beyond the university and the football league trust that conferred the prize. The "national" award's name, alone, does not demonstrate its national recognition. The record lacks evidence that national or international audiences know of the award. *See Krasniqi v. Dibbins*, 558 F. Supp. 3d 168, 182 (D.N.J. 2021) (citing *Visinscaia v. Beers*, 4 F.Supp.3d 126, 136 (D.D.C. 2013)) (holding that "evidence solely from the awarding organization itself may be insufficient if it does not show 'how a larger audience viewed [the] awards'"). Also, the Petitioner has not documented the soccer league trust's claimed "prestige" or national presence in England or Wales.

The Petitioner has not established the Beneficiary's receipt of nationally or internationally recognized awards in his field. We will therefore affirm our prior finding regarding this evidentiary criteria.

B. The Record Contains Insufficient Evidence of the Beneficiary's Membership in an Association Requiring "Outstanding Achievements . . ., As Judged by Recognized Experts"

Our prior decision found insufficient evidence that the Beneficiary's membership in the Football Association (FA) Coaches' Club requires "outstanding achievements" or that "recognized national or international experts" judge the club's membership candidates. *See* 8 C.F.R. § 204.5(h)(3)(ii) (requiring "[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").

The Petitioner contends that we misjudged the evidence. The league states: "The FA Coaches' Club evaluates applicants through rigorous requirements, including nationally recognized coaching certifications, continuous professional development, and adherence to strict professional standards." The league also states that coaches' club membership "is not open to the general public and reflects a high level of professional competence." Our appellate decision described the FA coaching requirements as "basic coaching certification." The league contends that "[t]he AAO's interpretation of [the club's] qualifications as 'basic requirements' rather than 'outstanding achievements' is overly narrow and inconsistent with regulatory intent."

Contrary to this criterion's plain language, however, the Petitioner has not submitted evidence that the coaches' club requires "outstanding achievements" of its members or that "recognized national or international experts" judge the club's membership candidates. The league submitted information from the club stating that members must be FA licensed coaches. The information indicates that FA licensed coaches must:

- have a "coaching qualification;"
- pass a criminal records bureau check;
- complete a "minimum level" of continuous professional development each year;
- retain children's safety and emergency aid certificates; and
- have adequate coaching insurance.

The record does not demonstrate that any of these requirements constitutes an "outstanding achievement." In this context, the word "outstanding" ordinarily means "marked by eminence and distinction." *Outstanding*, Merriam-Webster.com, www.merriam-webster.com. The Petitioner has not explained how the club's requirements reflect eminence or distinction. Also, the record lacks documentation showing that recognized national or international experts judge coaches' club candidates.

Further, our interpretation of this criterion's requirements is not "inconsistent with regulatory intent." "The regulations regarding this preference classification are extremely restrictive." *Kazarian v. USCIS*, 596 F.3d 1115, 1120 (9th Cir. 2009) (citation omitted). Congress intended to reserve this requested immigrant visa category for "that small percentage of individuals who have risen to the very top of their field of endeavor." Employment-Based Immigrants, 56 Fed. Reg. 60,897, 60,899 (Nov. 29, 1991). Thus, our interpretation of this evidentiary criterion follows both regulatory and congressional intent.

The Petitioner has not demonstrated the Beneficiary's membership in associations requiring outstanding achievements as judged by national or international experts. We will therefore affirm our prior finding regarding this evidentiary criterion.

C. The Petitioner Has Not Demonstrated That Published Material About the Beneficiary Appeared in "Professional or Major Trade Publications or Other Major Media"

To meet this criterion, the Petitioner submitted numerous online articles identifying and sometimes quoting the Beneficiary in his role as a soccer coach. We found insufficient evidence, however, that the articles appeared in "professional or major trade publications or other major media." *See* 8 C.F.R.

§ 204.5(h)(3)(iii) (requiring "[p]ublished 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").

The Petitioner contends that we misinterpreted the phrase "professional or major trade publications." The league states that its submission of "[a]rticles from outlets such as Napa Valley Register, NPSL.com, Daily Echo, and EFLTrust.com are widely respected within the sports and coaching community." The league asserts that our "restrictive interpretation of 'professional or major trade publications' is inconsistent with *Matter of Price*, 20 I&N Dec. 953 (Assoc. Comm'r 1994), which emphasizes the intended audience and industry significance of the publication." The league states: "The submitted articles highlight [the Beneficiary]'s achievements in soccer coaching and were published in outlets recognized by the target audience of his field."

> In evaluating whether a submitted publication is a professional publication, major trade publication, or major media, relevant factors include the intended audience (for professional and major trade publications) and the relative circulation, readership, or viewership (for major trade publications and other major media).

6 *USCIS Policy Manual* F.2(B)(1), Criteria 3. Thus, professional publications must target members of the applicable profession, and major media must have relatively high circulations, readerships, or viewerships. Major trade publications must target members of the profession and have relatively high circulation, readership, or viewership.

The Petitioner has not submitted any evidence of the circulations, readerships, or viewerships of the publications in which articles mentioning the Beneficiary appeared. Thus, the league has not established any of the publications as major trade publications or other major media. *See, e.g.*, *Noroozi v. Napolitano*, 905 F. Supp. 2d 535, 545 (S.D.N.Y. 2012) (ruling that a plaintiff did not satisfy this evidentiary criterion when they "did nothing to establish that the publications in which these articles appeared had the requisite level of circulation to qualify as either 'a major trade publication' or a 'major media publication'"). The Petitioner also has not submitted any evidence of the publications' target audiences. The league therefore has not established any of the publications as a professional publication. Counsel's unsubstantiated assertions to the contrary do not constitute evidence. *See, e.g., Matter of S-M-*, 22 I&N Dec. 49, 51 (BIA 1998) ("[S]tatements in a brief, motion, or Notice of Appeal are not evidence and thus are not entitled to any evidentiary weight").

Also, contrary to the Petitioner's assertion, *Price* does not discuss a publication's intended audience and industry significance, nor do the case's facts favor the league. In *Price*, an extraordinary ability petition was supported "by numerous articles in such national publications as *Golf Digest* and *Golf Magazine* regarding the petitioner and his ability on the golf course. Virtually every major newspaper has covered the petitioner's progress in the world of golf." *Matter of Price*, 20 I&N Dec. at 955-56. In contrast, the Petitioner has not demonstrated that national publications or major newspapers have similarly covered the Beneficiary and his progress in soccer coaching.

For the foregoing reasons, the Petitioner has not demonstrated that online articles mentioning the Beneficiary appeared in professional or major trade publications or other major media. We therefore decline to change our finding regarding this evidentiary requirement.

D. We Did Not Err by Disregarding Claimed Comparable Evidence

The Petitioner contends that we erred by disregarding proof of the Beneficiary's player development and successful coaching as "comparable evidence." The league notes: "The regulatory framework explicitly allows for comparable evidence when traditional criteria are not easily applicable to the field." *See* 8 C.F.R. § 204.5(h)(4) (stating that, if the evidentiary criteria at 8 C.F.R. § 204.5(h)(3) are not "readily applicable to the beneficiary's occupation, the petitioner may submit comparable evidence to establish the beneficiary's eligibility"). The league states that the proof of the Beneficiary's "contributions to player development . . . and his leadership of award-winning teams . . . should be recognized as comparable evidence."

The Petitioner, however, misunderstands the comparable evidence provision. The regulation does not require us to comb through the league's submissions in search of potential comparable evidence it may use. Rather, the Petitioner bears the burden of proof. *See Matter of Chawathe*, 25 I&N Dec. at 375-76. Thus, the league must demonstrate that the evidentiary criteria do not apply to the Beneficiary's occupation and identify claimed comparable evidence before we will consider it. *See, e.g., Zizi v. Cuccinelli*, No. 20-cv-07856, 2021 WL 2826713, *8 (N.D. Cal. July 7, 2021) (holding that "it is Plaintiff's burden to demonstrate that the standards in [8 C.F.R. § 204.5(h)(3)] did not readily apply to [the beneficiary's] occupation before USCIS is required to consider comparable evidence"). The Petitioner has not demonstrated inapplicability of the evidentiary criteria at 8 C.F.R. § 204.5(h)(3) to the Beneficiary's occupation.

For the foregoing reasons, the Petitioner has not met the required number of evidentiary criteria for this classification.

E. Final Merits Determination

On appeal, we reserved a final merits decision. Nevertheless, we found insufficient evidence that the Beneficiary has the acclaim and recognition needed for the requested classification. On motion, the Petitioner takes issue with our findings. But, because the league has not met the requisite number of evidentiary criteria, we need not reach final merits issues and hereby reserve their consideration. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (holding that agencies need not make "purely advisory findings" on issues unnecessary to their ultimate decisions).

III. CONCLUSION

The Petitioner has demonstrated neither eligibility for the requested classification nor our misapplication of law or USCIS policy.

ORDER: The motion to reconsider is dismissed.