



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

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

MATTER OF D-G-L-

DATE: JAN. 27, 2017

APPEAL OF TEXAS SERVICE CENTER DECISION

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

The Petitioner, an architect, seeks classification as an individual of extraordinary ability in the arts. *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, Texas Service Center, denied the petition, concluding that the Petitioner had not provided documentation satisfying the initial evidence requirements set forth at 8 C.F.R. § 204.5(h)(3), which requires documentation of a one-time achievement or evidence that meets at least three of the ten regulatory criteria.

The matter is now before us on appeal. In his appeal, the Petitioner argues that the Director erred in finding he did not meet at least three of the regulatory criteria under 8 C.F.R. § 204.5(h)(3)(i)-(x). The Petitioner further states that the evidence demonstrates his standing as an individual of extraordinary ability.

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

I. LAW

The Petitioner may demonstrate his extraordinary ability through sustained national or international acclaim and achievements that have been recognized in his field through extensive documentation. Specifically, section 203(b)(1)(A) of the Act states:

Aliens with extraordinary ability. -- An alien is described in this subparagraph 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

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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 his or her achievements in the field through 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 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).

Satisfaction of at least three criteria, however, does not, in and of itself, establish eligibility for this classification. *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), *aff'd*, 683 F.3d 1030 (9th Cir. 2012); *Matter of Chawathe*, 25 I&N Dec. 369, 376 (AAO 2010) (holding that the "truth is to be determined not by the quantity of evidence alone but by its quality" and that U.S. Citizenship and Immigration Services examines "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"). Accordingly, where a petitioner submits qualifying evidence under at least three criteria, we will determine whether the totality of 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.

II. ANALYSIS

A. Evidentiary Criteria

At the time of filing the petition, the Petitioner worked as an architectural project manager for [REDACTED] a real estate development and construction company in Florida. In this case, the Petitioner has not shown that he is the recipient of a qualifying award at a level similar to that of a Nobel Prize. As such, he must provide at least three of the ten types of documentation listed under 8 C.F.R. § 204.5(h)(3)(i)-(x).

The Director concluded that the Petitioner met the published material criterion under 8 C.F.R. § 204.5(h)(3)(iii). For instance, the Petitioner submitted articles about himself in [REDACTED] a major newspaper in Venezuela. Accordingly, the record supports the Director's finding that the Petitioner meets this criterion.

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In addition, we find that the Petitioner has met the display criterion under 8 C.F.R. § 204.5(h)(3)(vi). The Petitioner offered documentation indicating that his work was exhibited at the [REDACTED] an event that showcases architectural work. Furthermore, the Petitioner has performed in a leading or critical role for a distinguished organization under the regulation at 8 C.F.R. § 204.5(h)(3)(viii). The record reflects that, as project director and lead architect in the architecture department at [REDACTED] in Venezuela, the Petitioner oversaw the company's architecture and construction projects. The Petitioner also provided documentation of awards received by [REDACTED] and news articles about the company as evidence of its distinguished reputation. Thus, the Petitioner has met this third criterion. Lastly, the appellate submission includes evidence showing that the Petitioner has commanded a high salary under the regulation at 8 C.F.R. § 204.5(h)(3)(ix). The Petitioner submits documentation from his former employer reflecting annual compensation of \$250,000 and occupational data from the U.S. Department of Labor indicating that his compensation was high relative to others in the field. Therefore, the Petitioner has satisfied more than three of the regulatory criteria.

B. Final Merits Determination

As the Petitioner has submitted the requisite initial evidence, we will conduct a final merits determination. We will consider the entire record in the context of whether the Petitioner has demonstrated: (1) that he enjoys a level of expertise indicating that he is "one of a small percentage who have risen to the very top of the field"; and (2) that he has sustained national or international acclaim and that his achievements have been recognized in the field. *See* section 203(b)(1)(A) of the Act; 8 C.F.R. § 204.5(h)(2), (3); *see also Kazarian*, 596 F.3d at 1119-20. Based on the record as a whole, we find the Petitioner has made the requisite showing.

The record reflects that the Petitioner has more than 25 years of experience as an architect working on significant projects such as hotels, shopping malls, and residential and commercial buildings. He also served for several years as a professor in the faculty of design at [REDACTED]. The Petitioner established that he performed in a leading or critical role as project manager for [REDACTED] and as project director for [REDACTED] an organization with a distinguished reputation. With respect to his career of acclaimed work, the record includes numerous articles about the Petitioner and his architectural projects in publications such as [REDACTED] and [REDACTED]. Furthermore, the Petitioner has authored multiple articles in [REDACTED] that highlight his architectural work and designs. We find that the extensive submitted coverage of the Petitioner in professional and major trade publications and other major media over two decades demonstrates his sustained national acclaim in the architecture field.

In addition, the Petitioner offered documentation indicating that his work was exhibited at the [REDACTED] and the [REDACTED], professional events that showcased his architectural projects. Further, the Petitioner's architectural designs have been recognized with awards from the [REDACTED] and the [REDACTED]. Lastly,

the Petitioner submits documentation showing that he has commanded a high level of compensation relative to other architects.

In conclusion, the Petitioner has demonstrated his extraordinary ability as an architect. He submitted qualifying evidence under at least three of the ten evidentiary criteria and the record as a whole establishes that he has attained a “level of expertise indicating that [he] is one of that small percentage who have risen to the very top of the field of endeavor” and sustained national acclaim. *See* section 203(b)(1)(A) of the Act; 8 C.F.R. § 204.5(h)(2), (3); *see also Kazarian*, 596 F.3d at 1119-20. The Petitioner’s achievements have been recognized in his field of expertise through extensive documentation. Finally, he has shown that he seeks to continue working in the same field in the United States and that his entry into the United States will substantially benefit prospectively the United States.

III. CONCLUSION

For the above reasons, the Petitioner has met his burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013).

ORDER: The appeal is sustained.

Cite as *Matter of D-G-L-*, ID# 126489 (AAO Jan. 27, 2017)