



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

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

MATTER OF A-M-O-S-

DATE: DEC. 1, 2015

APPEAL OF TEXAS SERVICE CENTER DECISION

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

The Petitioner, an individual, seeks classification as an individual of extraordinary ability in the arts as a collaborative pianist and vocal coach. *See* Immigration and Nationality Act (the Act) § 203(b)(1)(A), 8 U.S.C. § 1153(b)(1)(A). The Director, Texas Service Center, denied the petition. The matter is now before us on appeal. The appeal will be dismissed.

**I. PERTINENT FACTS AND PROCEDURAL HISTORY**

On April 8, 2014, the Petitioner filed the Form I-140, Immigrant Petition for Alien Worker. The classification the Petitioner seeks makes visas available to foreign nationals who can demonstrate their extraordinary ability through sustained national or international acclaim and whose achievements have been recognized in their field through extensive documentation. After serving a request for evidence (RFE), the Director determined that the Petitioner had not satisfied the initial requirements set forth at 8 C.F.R. § 204.5(h)(3), which requires a one-time achievement or satisfaction of at least three of the ten regulatory criteria. On appeal, the Petitioner submits a brief and an administrative decision from this office.

For the reasons discussed below, we agree that the Petitioner has not established her eligibility for the classification sought. Specifically, the Petitioner has not submitted qualifying evidence of a one-time achievement pursuant to 8 C.F.R. § 204.5(h)(3), or documentation that she is one of the small percentage who are at the very top in the field of endeavor, and that she has sustained national or international acclaim. *See* 8 C.F.R. § 204.5(h)(2), (3).

**II. RELEVANT LAW AND REGULATIONS**

Section 203(b) of the Act states, in pertinent part, that:

(1) Priority workers. -- Visas shall first be made available . . . to qualified immigrants who are aliens described in any of the following subparagraphs (A) through (C):

(A) Aliens with extraordinary ability. -- An alien is described in this subparagraph if--

(b)(6)

*Matter of A-M-O-S-*

(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 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 the Petitioner does not submit this evidence, then 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).

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 evidence is first counted and then, if satisfying the required number of criteria, considered in the context of a final merits determination). *See also Rijal v. USCIS*, 772 F.Supp.2d 1339 (W.D. Wash. 2011) (affirming our proper application of *Kazarian*), *aff'd*, 683 F.3d 1030 (9th Cir. 2012); *Visinscaia v. Beers*, 4 F.Supp.3d 126, 131-32 (D.D.C. 2013) (finding that U.S. Citizenship and Immigration Services (USCIS) appropriately applied the two-step review); *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 USCIS 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").

### III. ANALYSIS

#### A. Evidentiary Criteria

The Director determined the Petitioner satisfied the criteria at 8 C.F.R. § 204.5(h)(3)(vii) for the display of her work, and 8 C.F.R. § 204.5(h)(3)(viii) through her performance of a leading or critical role for organizations or establishments with a distinguished reputation. The Director determined that the Petitioner did not meet the requirements of the judging criterion at 8 C.F.R. § 204.5(h)(3)(iv). The Petitioner's appellate brief maintains that the Director did not address the Petitioner's service on the jury at the [REDACTED] Piano Competition. The Petitioner initially filed foreign language evidence pertaining to this panel with translations that were not certified in accordance with 8 C.F.R. § 103.2(b)(3). The Petitioner's RFE response resubmitted this material

(b)(6)

*Matter of A-M-O-S-*

with a certified translation. The Petitioner also provided the competition rules, which sufficiently demonstrate the Petitioner met the plain language requirements of this criterion.

#### B. Summary

For the reasons discussed above, the Petitioner has submitted the requisite initial evidence, in this case, documentation that satisfies three of the ten regulatory criteria.

#### C. Final Merits Determination

The documentation submitted in support of a claim of extraordinary ability must reflect that the Beneficiary has achieved sustained national or international acclaim and is one of the small percentage who have risen to the very top of the field of endeavor. In accordance with the *Kazarian* opinion, we will therefore conduct a final merits determination that considers all of the evidence in the context of whether or not the Petitioner has demonstrated: (1) a “level of expertise indicating that the individual is one of that small percentage who have risen to the very top of the[ir] field of endeavor,” 8 C.F.R. § 204.5(h)(2); and (2) “that the alien has sustained national or international acclaim and that his or her achievements have been recognized in the field of expertise.” 8 C.F.R. § 204.5(h)(3). *See Kazarian*, 596 F.3d at 1119-20. For the reasons discussed below, we conclude that the Petitioner has not made such a showing. Accordingly, the appeal must be dismissed.

The Petitioner satisfied the leading or critical role criterion at 8 C.F.R. § 204.5(h)(3)(viii). A review of her performance for [REDACTED] Opera Center, [REDACTED] and to a lesser extent for the [REDACTED] Symphony Orchestra, collectively are representative of a successful career. These roles, by themselves, are not extensive evidence of the Petitioner’s national or international acclaim. As discussed below, the remaining evidence does not demonstrate the Petitioner’s sustained national or international acclaim or that she has risen to the very top of her field.

Although some of the competitions in which the Petitioner received a prize or an award bear the word “National” within the competition’s title, we will not presume that the awards issued at such competitions are necessarily indicative of national or international acclaim or having risen to the very top of the field. National and international recognition results through the awareness of the accolade in the eyes of the field nationally or internationally. Moreover, even if the Petitioner had established that her awards are nationally or internationally recognized in the field, some awards with that level of recognition may still be geared towards promoting the careers of youth rather than recognizing those with achievements that place them at the top of the field, which includes those with experience.

The record contains two letters from [REDACTED] a professor at the National Conservatory of Music in [REDACTED], who served as the judge at the Petitioner’s first place finish for the [REDACTED] Piano Competition. In his July 15, 2013, letter, he characterized the event as “one of the most important at the child and youth levels in Venezuela and Latin America.” In his January 27, 2015, letter, Professor [REDACTED] indicated that the Petitioner received a monetary

(b)(6)

*Matter of A-M-O-S-*

prize, was afforded the opportunity to go abroad for festivals and programs, and was invited to perform with recognized orchestras in Venezuela. He described the three-stage competition as beginning with 15-20 competitors. He did not specify the pool from which the participants are selected but explained that the aim of the competition is to “help young pianists within the ages of 10-16 to begin their careers.” These letters contain insufficient detail regarding the pool of competitors and awareness of the event in the field to demonstrate the recognition of the competition beyond the awarding entity. More significantly, his discussion does not confirm that winning these awards is indicative of national or international acclaim and status among the small percentage at the top of the field.

The Petitioner also included two articles from [REDACTED] newspaper according to the printout from [www.onlinenewspapers.com](http://www.onlinenewspapers.com) that the Petitioner submitted. These articles covered the [REDACTED] Competition and the [REDACTED] Piano Competition, both in [REDACTED]. The Petitioner asserts that the original petition contained circulation statistics that represent the national or international recognition of her awards. However, a review of this evidence reveals that it derives from *Wikipedia*. With regard to information from *Wikipedia*, there are no assurances about the reliability of the content from this open, user-edited Internet site.<sup>1</sup> See *Lamilem Badasa v. Michael Mukasey*, 540 F.3d 909 (8th Cir. 2008). Therefore, this documentation carries very little evidentiary weight within the present proceedings. The Director’s RFE and final decision both notified the Petitioner that the information from *Wikipedia* was not sufficient, but the Petitioner does not remedy this concern on appeal with additional supporting information. As a result, the record does not contain sufficient evidence to demonstrate that the Petitioner’s prizes or awards at these two competitions are nationally or internationally recognized or are otherwise demonstrative of sustained acclaim and placement among that small percentage who have risen to the very top of the field of endeavor.

The Petitioner initially discussed her affiliation with two organizations; the [REDACTED] Opera [REDACTED] as well as the [REDACTED] Opera Program. The record demonstrates that the [REDACTED] Opera Program enjoys a distinguished reputation. The Petitioner submitted several items from the [REDACTED] website. The material titled, “[REDACTED]” reflects that the training program offers master class and performance opportunities and that admission into the program “is based on talent rather than financial ability.” However, neither this information nor any other probative evidence from the organization establishes the specific requirements for admission or confirms that it is an association that admits members (as the Petitioner suggested), rather than students or program participants. In his letter, [REDACTED] Director of Musical Studies at the [REDACTED], provided some information about the selection process. The Director concluded there was a

---

<sup>1</sup> *Wikipedia* is subject to a disclaimer explaining that the website “allows anyone with an Internet connection to alter its content” and its content has not “necessarily been reviewed by people with the expertise . . . . *Wikipedia* cannot guarantee the validity of the information found here.” The website organizers allow the content of any given article to “have been changed, vandalized or altered by someone whose opinion does not correspond with the state of knowledge in the relevant fields.” See [http://en.wikipedia.org/wiki/Wikipedia:General\\_disclaimer](http://en.wikipedia.org/wiki/Wikipedia:General_disclaimer), accessed on November 2, 2015, a copy of which is incorporated into the record of proceedings.

(b)(6)

*Matter of A-M-O-S-*

lack of probative corroborating documentation. Within the appeal, the Petitioner discusses the Director's analysis of Mr. [REDACTED] letter, but does not offer additional information that reveals this organization's membership requirements. Regarding Mr. [REDACTED] statements, without information from the [REDACTED] Opera Program, Mr. [REDACTED] assertions are not supported by corroborating evidence. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Assoc. Comm'r 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg'l Comm'r 1972)). Moreover, Mr. [REDACTED] did not provide specifics relating to the level of achievement required. Securing a position in a distinguished training program is not necessarily indicative of acclaim or status among the small percentage at the top of the field.

In reference to the [REDACTED] Studio, the Petitioner submitted the following: the Petitioner's employment contract to serve as a coach and pianist; general information from the organization's website or from other websites; evidence from *Wikipedia*; organizational programs containing references to the Petitioner; and letters from those in leadership positions within the organization. The documentation establishes the distinguished reputation of this organization. The contract; letter from [REDACTED] Director of the studio; and information from this organization's website, however, did not indicate that the Petitioner's position as a pianist/coach constituted a membership in this entity, as suggested by the Petitioner. Regardless, although Ms. [REDACTED] described the level of talent and ability that coaches and directors must possess, she did not specify any outstanding achievements that individuals in these positions must already have accomplished. While the Petitioner also provided a letter from [REDACTED] Professor of Music at the [REDACTED] Mr. [REDACTED] did not sign that letter. Ultimately, while the Petitioner's ability to obtain a position with a distinguished entity confirms her skill, it does not place her at the top of the field or demonstrate her acclaim.

The Petitioner provided numerous articles as evidence under the published material criterion at 8 C.F.R. § 204.5(h)(3)(iii). The Director determined that for those articles that were about the Petitioner and related to her work in the field, the record lacked information to demonstrate the publications were professional or major trade publications, or other major media. On appeal, the Petitioner provides the list of articles and other documents that should be considered as published material and references information about the publications that she submitted initially as part of exhibit 11. The specific circulation data in that exhibit, however, derived from *Wikipedia*. As discussed above, the Director advised the Petitioner in the RFE and the final decision that this website is not reliable. *See Lamilem Badasa*, 540 F.3d at 909. Without evidence of the publications' circulation, distribution, or other factors indicative of major media, the articles not only do not meet the requirements of the published material criterion, they are not indicative of the Petitioner's sustained acclaim.

The Petitioner established that she performed as a judge of the work of others in the field in one instance, the [REDACTED] Piano Competition. This event's rules reflect that the competitors were young artists. Mr. [REDACTED] assertion relating to the importance of this competition is not probative as the record lacks corroborating documentation. *Soffici*, 22 I&N Dec. at 165. A single

(b)(6)

*Matter of A-M-O-S-*

instance of judging a national youth competition is not a record of achievement in accord with a performing artist who has risen to the top of her field.

The letters that the Petitioner provided as evidence of contributions of major significance in the field not only do not meet the requirements of the criterion at 8 C.F.R § 204.5(h)(3)(v), they are not indicative of acclaim or status among the few at the top of the field. The plain language of the phrase “major significance” requires an impact beyond one’s employer and clients, customers or patients. *See Visinscaia*, 4 F. Supp. 3d at 134-35 (upholding a finding that a ballroom dancer had not met this criterion because she did not demonstrate her impact in the field as a whole). The Petitioner discusses her arrangement for two pianos to perform [REDACTED] and presents the [REDACTED] letter from [REDACTED]. As noted above, this letter is not signed and, thus, has no evidentiary weight. She also submitted a letter from [REDACTED] Associate Professor of Piano at the [REDACTED]. Dr. [REDACTED] stated that the Petitioner’s performances “will be highly-recognized”; however, he did indicate how her work has already been influential in the field as a whole. The Petitioner also points out that her arrangement for [REDACTED] was sufficiently important that it made a national premiere with the [REDACTED] Symphony Orchestra to celebrate the [REDACTED] anniversary of the original composition. While this selection may show the piece is well regarded, the Petitioner does not describe what impact her arrangement has had in the field or how it garnered her acclaim.

The Petitioner also points to media attention directed to her work, including radio interviews, concluding that the media has the potential to reach a large number of people. However, the Petitioner has not identified the manner in which such attention influenced the field, especially as she did not submit probative evidence relating to the importance or the reach of the publications in which the articles appeared. Further, while a public radio station may be accessible to everyone in the listening area, the Petitioner has not established this station’s actual listening audience, or how this broadcast has influenced the field in a significant way. Without evidence of the reach of the various media outlets, the Petitioner has not demonstrated that this coverage garnered her national or international acclaim.

The Petitioner discusses her performances at premiere events, such as the production of [REDACTED] and the regional premiere of [REDACTED]. The Petitioner indicates that the letter from [REDACTED] Director of the [REDACTED] explained the importance of these performances. Within her letter, Ms. [REDACTED] stated the performances were acclaimed and that they “contributed significantly to [REDACTED] Opera’s success with the production.” The plain language of the phrase “contributions of major significance in the field” requires evidence of an impact beyond one’s employer and clients or customers. *See Visinscaia*, 4 F. Supp. at 134 (upholding a finding that a ballroom dancer had not met the contributions criterion because she did not demonstrate her impact in the field as a whole). The Petitioner has not demonstrated that these performances garnered the Petitioner national or international acclaim beyond the local audiences who attended.

Finally, the Petitioner states her contribution in the field is “that she continues to strengthen the tradition of performing new pieces and to new audiences, which is critical to advancing the field of

(b)(6)

*Matter of A-M-O-S-*

music.” The record does not specifically address how the Petitioner’s original work has made an impact in the field at large or how any impact has garnered her national or international acclaim. Within the above quote, she identifies how she has made some progress within the general field of music, rather than how her work has been significantly influential or acclaimed.

Solicited letters from colleagues that do not specifically identify contributions or specific examples of how those contributions influenced the field are insufficient evidence of contributions of major significance.<sup>2</sup> *Kazarian v. USCIS*, 580 F.3d 1030, 1036 (9th Cir. 2009), *aff’d in part*, 596 F.3d 1115 (9th Cir. 2010). The opinions of experts in the field are not without weight and have been considered above. USCIS may, in its discretion, use as advisory opinions statements submitted as expert testimony. *See Matter of Caron Int’l*, 19 I&N Dec. 791, 795 (Comm’r 1988). However, USCIS is ultimately responsible for making the final determination regarding an alien’s eligibility for the benefit sought. *Id.* The submission of letters from experts supporting the petition is not presumptive confirmation of eligibility; USCIS may, as this decision has done above, evaluate the content of those letters as to whether they support the foreign national’s eligibility. *See id.* at 795; *see also Matter of V-K-*, 24 I&N Dec. 500, n.2 (BIA 2008) (noting that expert opinion testimony does not purport to be evidence as to “fact”). USCIS may even give less weight to an opinion that is not corroborated, in accord with other information or is in any way questionable. *Caron Int’l*, 19 I&N Dec. at 795; *see also Soffici*, 22 I&N Dec. at 165 (citing *Matter of Treasure Craft of California*, 14 I&N Dec. at 190); *see also Visinscaia*, 4 F. Supp. 3d at 134-35 (upholding our decision to give minimal weight to vague, solicited letters from colleagues or associates that do not provide details on contributions of major significance in the field). We have considered all the reference letters, including those not specifically mentioned. In the context of the final merits determination, the evidence the Petitioner submitted to exhibit her impact or influence in the field is not indicative of or consistent with national or international acclaim.

Although the Petitioner satisfied the display criterion within the antecedent procedural step at 8 C.F.R. § 204.5(h)(3)(vii), within the final merits determination, we look at the nature of the performances and any repute the Petitioner may have gained as a result to assess the quality of the evidence submitted. The Petitioner has performed with distinguished groups such as the [REDACTED] Symphony Orchestra. However, the record does not contain documentation to show, for instance, that her performances garnered her personal attention at a highly elevated level, in a manner consistent with sustained national or international acclaim. For example, the Petitioner did not submit probative evidence of media reflecting that the events brought the Petitioner individual national or international-level critical acclaim.

Regarding the Petitioner’s salaries and wages under 8 C.F.R. § 204.5(h)(3)(ix), the Petitioner must present objective earnings data showing that she has earned a “high salary” or “significantly high remuneration” in comparison with those performing similar work during the same time period. *See*

---

<sup>2</sup> In 2010, the *Kazarian* court reiterated that our conclusion that “letters from physics professors attesting to [a petitioner’s] contributions in the field” were insufficient was “consistent with the relevant regulatory language.” 596 F.3d at 1122.

(b)(6)

*Matter of A-M-O-S-*

*Matter of Price*, 20 I&N Dec. 953, 954 (Assoc. Comm'r 1994) (considering professional golfer's earnings versus other PGA Tour golfers); *see also Grimson v. INS*, 934 F. Supp. 965, 968 (N.D. Ill. 1996) (considering NHL enforcer's salary versus other NHL enforcers); *Muni v. INS*, 891 F. Supp. 440, 444-45 (N.D. Ill. 1995) (comparing salary of NHL defensive player to salary of other NHL defensemen).

The material the Petitioner provided to establish her salary or wages are two employment contracts between herself and [REDACTED] her 2013 Form W-2, Wage and Tax Statement (Form W-2), and her 2013 Form 1099-MISC, and, in response to the RFE, a June 19, 2014, job offer from the [REDACTED] offering a salary of \$50,000 for the academic year. The [REDACTED] employment contracts reflect she earned \$2,000 and \$3,000 respectively, approximately \$23,005 appears on the Form W-2 [REDACTED] issued to her, and approximately \$3,418 on the Form 1099-MISC from the [REDACTED] Opera Program. The initial cover letter and the appeal discuss a \$44.23 hourly wage from the [REDACTED] however, the Petitioner did not identify the evidence demonstrating the source of this hourly wage figure and the initial evidence did not confirm the Petitioner's wage for that institution. In response to the RFE, the Petitioner documented an offer from the university for \$50,000 for the academic year, which the Petitioner calculated to be an hourly wage of \$32.05. Relying on a rehearsal schedule, the Petitioner calculated that her hourly wage for [REDACTED] was \$150 based on 20 hours of work.

The Petitioner relies on the Occupational Employment Statistics (OES) survey for the \$24.08 hourly wage as the data with which to compare to her salary or remuneration. This figure only applies to the [REDACTED] Texas Metropolitan Statistical Area. The Foreign Labor Certification (FLC) Data Center's Online Wage Library relies on the Bureau of Labor Statistics (BLS) OES wage estimates.<sup>3</sup> The BLS produces occupational employment and wage estimates for over 450 industry classifications at the national level. The employment data are benchmarked to average employment levels.<sup>4</sup> Regarding information found on the [REDACTED] website, the information is also collected through the OES survey, conducted by the BLS.<sup>5</sup> The plain language of the regulation requires the Petitioner to establish her salary is high when compared to others in the field. As such, average statistics limited to one particular area do not meet this requirement. The Petitioner also identifies the FLC's different wage levels in support of her hourly wage being high. The FLC utilizes four wage levels that benchmark the average wage commensurate with "experience, education, and the level of supervision."<sup>6</sup> The Petitioner has not shown that a wage above the average of a level four wage level necessarily meets the plain language requirements of the high salary criterion. Moreover, the Petitioner's position with the [REDACTED] was as a Visiting Assistant Professor. The Petitioner has not provided wages for professors at institutions of higher learning for comparison purposes.

<sup>3</sup> <http://www.flcdatacenter.com/casedata.aspx>

<sup>4</sup> [http://www.bls.gov/oes/oes\\_emp.htm#estimates](http://www.bls.gov/oes/oes_emp.htm#estimates)

<sup>5</sup> [http://www.\[REDACTED\]/faq/faqsnewtopics.aspx](http://www.[REDACTED]/faq/faqsnewtopics.aspx)

<sup>6</sup> *See* [http://www.flcdatacenter.com/download/NPWHC\\_Guidance\\_Revised\\_11\\_2009.pdf](http://www.flcdatacenter.com/download/NPWHC_Guidance_Revised_11_2009.pdf) at page 6, accessed on November 2, 2015, a copy of which is incorporated into the record of proceedings.



(b)(6)

*Matter of A-M-O-S-*

Regarding the Petitioner's services for [REDACTED] the Petitioner established she received \$3,000 for a concert titled [REDACTED]. The Petitioner provided an employment contract for this commitment that reflected the Petitioner would receive the stated funds for her work. The Petitioner estimated her hourly commitment to this concert to be 20 hours for an hourly wage of \$150. To support the number of hours, she submitted a rehearsal schedule for the [REDACTED] project reflecting approximately 20 hours of rehearsal and performance time in February 2014. The contract, however, covered January 18, 2014, through February 22, 2014, and indicated that the Petitioner would be involved in numerous aspects of the project, including coaching artists. The Petitioner has not shown that all of those duties would occur during the scheduled rehearsals, with no prior personal preparation or additional time spent coaching.

On appeal, the Petitioner relies on the USCIS Policy Memorandum PM-602-0005.1, Evaluation of Evidence Submitted with Certain Form I-140 Petitions; Revisions to the Adjudicator's Field Manual (AFM) Chapter 22.2, AFM Update AD11-14, page 11, (December 22, 2010), <http://www.uscis.gov/sites/default/files/USCIS/Laws/Memoranda/i-140-evidence-pm-6002-005-1.pdf> in support of the data she provided to compare her compensation. While this memorandum states that some governmental statistics "may be helpful in evaluating" evidence under this criterion, this data may not be the determining factor regarding whether a Petitioner has commanded a high salary or other significantly high remuneration in relation to others in the field. As the Petitioner has not demonstrated that her salary is high when compared with others performing similar work nationally, she has not established that her remuneration level is among that small percentage who have risen to the very top of their field of endeavor.

The Petitioner asserted that her evidence was comparable to the commercial success criterion at 8 C.F.R. § 204.5(h)(3)(x).<sup>7</sup> Her RFE response indicated that the groups to which she belongs, or has belonged, are very successful commercially. An example is her critical role with [REDACTED]. The Petitioner points to the information relating to the [REDACTED] and how the organization achieved commercial success. The Petitioner refers to the Director of the [REDACTED] and how he attributed [REDACTED] success entirely to the artists within the organization. The Petitioner did not provide the [REDACTED] box office receipts or record, cassette, compact disk, or video sales data. Without such information, the Petitioner has not fully documented this organization's success. There is no documentary evidence showing that the Petitioner's performances and recordings are indicative of, or consistent with sustained national acclaim or a level of expertise indicating that she is one of that small percentage who have risen to the very top of her field.

Finally, considering the full measure of the Petitioner's ability and achievements, the level of her national or international recognition, and the extent to which her achievements have been recognized in the field are not indicative of a record of sustained acclaim. The Petitioner has shown notable success through her performance of a leading or critical role for organizations or establishments with

---

<sup>7</sup> The criterion expressly relates to the performing arts, the Petitioner's field. The regulation at 8 C.F.R. § 204.5(h)(4) allows the submission of comparable evidence where the criteria do not readily apply to the Petitioner's occupation.

a distinguished reputation. The remaining evidence, however, does not place her among that small percentage who have risen to the very top of the field of endeavor. Ultimately, the Petitioner has not established that she currently qualifies for this classification.

#### IV. CONCLUSION

The documentation submitted in support of a claim of extraordinary ability must demonstrate that the Petitioner has achieved sustained national or international acclaim and is one of the small percentage who has risen to the very top of the field of endeavor. The record in the aggregate, however, does not reflect that the Petitioner has distinguished herself to such an extent that she may be said to have achieved sustained national or international acclaim or to be within the small percentage at the very top of her field. The evidence is not persuasive that the Petitioner's achievements set her significantly above almost all others in her field at a national or international level. Therefore, the Petitioner has not established her eligibility pursuant to section 203(b)(1)(A) of the Act and the petition may not be approved.

The appeal will be dismissed for the above stated reasons, with each considered as an independent and alternate basis for the decision. In visa petition proceedings, it is the Petitioner's 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). Here, the Petitioner has not met that burden.

**ORDER:** The appeal is dismissed.

Cite as *Matter of A-M-O-S-*, ID# 14590 (AAO Dec. 1, 2015)