U.S. Citizenship and Immigration Services

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

MATTER OF A-N-B-R-P-

DATE: DEC. 13, 2016

APPEAL OF TEXAS SERVICE CENTER DECISION

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

The Petitioner, a journalist, 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 of the Texas Service Center denied the petition, concluding that although the Petitioner satisfied three of the regulatory criteria, she did not establish that she is among the small percentage at the very top of the field of endeavor and that she possesses the requisite national or international acclaim.

The matter is now before us on appeal. In her appeal, the Petitioner submits additional documentation and a brief stating that she has sustained her extraordinary abilities as a journalist.

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

## I. LAW

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

> (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 –
>
> (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 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 (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"). 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

The Petitioner is a journalist who has worked as a television hostess and a communication advisor to two former Venezuelan presidents. As 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).

### A. Evidentiary Criteria

The Director found that the Petitioner met the published material criterion under 8 C.F.R. § 204.5(h)(3)(iii), the judging criterion under 8 C.F.R. § 204.5(h)(3)(iv), and the leading or critical role criterion under 8 C.F.R. § 204.5(h)(3)(viii). Specifically, the Director indicated that "a few [of the submitted articles] were found to be qualifying and related to the [Petitioner]." In addition, the Petitioner served as a juror of theses at [redacted] Further, the Petitioner was

employed as a and for former and and as a television hostess for on A review of the record of proceedings supports the Director's findings that the Petitioner has met at least three of the ten criteria listed at 8 C.F.R. § 204.5(h)(3).

B. Final Merits Determination

As the Petitioner has submitted the requisite initial evidence, we will conduct a final merits determination. Specifically, we evaluate whether the Petitioner has demonstrated, by a preponderance of the evidence, that she has sustained national or international acclaim and that her achievements have been recognized in the field through extensive documentation, making her one of the small percentage who has risen to the very top of the field of endeavor. In a final merits determination, we analyze the Petitioner's accomplishments and weigh the totality of the evidence to determine if her successes are sufficient to demonstrate that she has extraordinary ability in the field of endeavor. *See* section 203(b)(1)(A)(i) of the Act; 8 C.F.R. § 204.5(h)(2), (3); *see also Kazarian*, 596 F.3d at 1119-20. In this matter, we determine that the Petitioner has not shown her eligibility.

The record indicates that the Petitioner received a bachelor's of science in speech communication, marketing, and advertising from in 1995. From 1997-1999, the Petitioner served as the director of art and culture and as a professor for one course at Thereafter, the Petitioner worked as the and for former from 1999-2001 and has been the for former since 2000. From 2002-2004, the Petitioner was an opinion writer for Around the same time, the Petitioner also represented an pro-democracy group, and two years later she founded a non-nonviolent, pro-democracy movement. From 2006-2009, the Petitioner hosted an investigative journalism program, which aired on until the government revoked the channel's broadcasting license. After 2009, although the Petitioner's documentation does not show the dates of her employment or activities, her evidence reflects that she has consulted with to restore its rights to broadcast, advised on socio-political issues, has counseled with the relating to communications and media, and was hired to prepare a compilation of former life and work. Most recently, the Petitioner has reported for various Internet sites, such as and

As seen above, the Petitioner has broad experience in the journalistic field ranging from print, television, and radio to press secretary. Having diverse experience, however, is not necessarily tantamount to a "career of acclaimed work in the field" as contemplated by Congress. H.R. Rep. No. 101-723, 59 (Sept. 19, 1990). The Petitioner's documentary evidence mainly relates to her political activism and does not show sustained national or international acclaim as a journalist or demonstrate that she is one of the small percentage who has risen to the top of her field.

Although the Petitioner offered numerous articles for the published material criterion under 8 C.F.R. § 204.5(h)(3)(iii), most of them reference her involvement with political demonstrations and associations. The record contains many articles from publications, such as and which quote the Petitioner or report her appearance at democratic rallies. The coverage, however, is not about the Petitioner relating to her work in the field of journalism. The record contains only two articles that discuss the Petitioner as a journalist ("Television New Season of in and Although the Petitioner established that is a major medium, she did not offer evidence of the status of Further, the Petitioner did not include the date and/or author for several of the articles as required by the regulatory criterion. On appeal, the Petitioner offers a screenshot from dated May 2009, in which the Petitioner provided a statement regarding her kidnapping in a hospital while she was reporting for The Petitioner did not demonstrate that the website is considered a major medium, nor did she show the article is about her rather than about the group's kidnapping encounter.

Thus, the record contains one qualifying article, from 2006, which discusses the Petitioner's role as hostess of the revamped show. The petitioner did not demonstrate that a single article published approximately 10 years prior to the filing of the petition is consistent with the sustained national or international acclaim necessary for this highly restrictive classification. Moreover, even if we considered all of the articles in the record, the most recent one is from 2009, approximately seven years ago.

Regarding the judging criterion under 8 C.F.R. § 204.5(h)(3)(iv), the record reflects that the Petitioner judged theses of students at in 1999. An evaluation of the significance of the Petitioner's judging experience is sanctioned under *Kazarian,* 596 F. 3d at 1121-11, to determine if such evidence is indicative of the extraordinary ability required for this classification. Without evidence that sets the Petitioner apart from others in her field, such as documentation that she has served as a judge of professional journalists rather than aspiring students or amateurs, the record relating to this criterion does not demonstrate that she "is 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). Further, as the Petitioner has not participated as a judge in over 17 years, this documentation does not show the required sustained national or international acclaim for this highly restrictive classification.

Concerning the leading or critical role criterion under 8 C.F.R. § 204.5(h)(3)(viii), the Petitioner established that she served as under former from 1999-2001 and hostess of from 2006-2009. Although we acknowledge the importance of the Petitioner's position as press secretary for the former president, as well as the television ratings for the Petitioner has not shown that her employment since 2009 has garnered national or international attention consistent with a "career of acclaimed work in the field." H.R. Rep. No. 59.

On appeal, the Petitioner contends that the Director undervalued her evidentiary significance as a reporter for from 2006-2009 and disregarded the program's success and her national acclaim

from it. Furthermore, she indicates that she sustained her investigative journalist acclaim after the station's shutdown by consulting with media outlets, working with opposition leaders, and freelancing with alternative media. The Petitioner provided evidence reflecting that in 2009, placed first in the ratings for paid television and second in the overall market. As such, we acknowledge that the Petitioner was recognized and garnered acclaim as a hostess and reporter for and contributed to its success. However, the Petitioner has not shown that she has sustained that national acclaim as a journalist since her departure in 2009 from the television program. Although the Petitioner submitted documentation confirming her employment since she has not established that such work has been recognized at a level consistent with being among the small percentage who have risen to the very top of the journalistic field. *See* 8 C.F.R. § 204.5(h)(2) and (3).

The recency of the Petitioner's renown is relevant as the classification requires a record of *sustained* national or international acclaim. As discussed above, the Petitioner indicated that, since 2009, she has consulted with and the however she did not demonstrate the impact of her advisory roles or otherwise show that they are representative of continued national or international acclaim. Similarly, although the Petitioner submitted evidence of her recent work as a reporter for several digital media outlets, there is not sufficient evidence to demonstrate that "her achievements have been recognized in the field of expertise." *See* 8 C.F.R. § 204.5(h)(3).

Further, in former letter, he indicated that the Petitioner currently serves as "a most important player in the communicational area of my office and is in charge of managing it with an unmatchable distinction." The letter, however, does not describe the duties or activities involved in this role, nor does it demonstrate the recognition associated with this position within the field of journalism. Likewise, the Petitioner offered a letter from the son of former who stated that he hired the Petitioner about a year ago to prepare a compilation of his father's life's work. The letter does not indicate if the Petitioner completed her work, and if so, whether it brought her any favorable attention. USCIS may, in its discretion, use as advisory opinion statements submitted as expert testimony. *See Matter of Caron International*, 19 I&N Dec. 791, 795 (Comm'r 1988). However, USCIS is ultimately responsible for making the final recognized determination regarding eligibility for the benefit sought. *Id.* The submission of letters of support from the petitioner's personal contacts is not presumptive evidence of eligibility; USCIS may evaluate the content of those letters as to whether they support eligibility. *See id.* at 795-796; *see also Matter of V-K-*, 24 I&N Dec. at 500 n.2 (BIA 2008). Again, the Petitioner did not sufficiently show that "her achievements have been recognized in the field of expertise." *See* 8 C.F.R. § 204.5(h)(3).

In summary, the Petitioner's evidence confirms that she has worked in various venues of the journalism field. This experience, however, is not sufficient to establish that she has garnered sustained national or international acclaim or is one of the small percentage at the very top of her field of endeavor. We find that the record as a whole does not reflect extensive documentation showing that the Petitioner's achievements have been recognized in the field.

## III. CONCLUSION

The Petitioner has not demonstrated that she qualifies as an individual of extraordinary ability. Accordingly, she has not established 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 dismissed.

Cite as *Matter of A-N-B-R-P-*, ID# 39907 (AAO Dec. 13, 2016)