



U.S. Citizenship
and Immigration
Services

Non-Precedent Decision of the
Administrative Appeals Office

MATTER OF T-C-

DATE: JUNE 24, 2016

APPEAL OF NEBRASKA SERVICE CENTER DECISION

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

The Petitioner, a television presenter and producer, 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 classification 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.

The Director, Nebraska Service Center, denied the petition. The Director determined that the Petitioner had not satisfied the initial evidence requirements set forth at 8 C.F.R. § 204.5(h)(3), which necessitates either 1) documentation of a one-time major achievement, or 2) materials that show that she meets at least three of ten regulatory criteria listed under 8 C.F.R. § 204.5(h)(3)(i)-(x).

The matter is now before us on appeal. In her appeal, the Petitioner submits no new evidence but argues that the Director erred in concluding that she did not meet the lesser nationally or internationally recognized prizes or awards criterion, the membership in associations criterion, the published material criterion, the original artistic contributions of major significance criterion, and the authorship of scholarly articles criterion.

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

I. LAW

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

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,

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- (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 has 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 her achievements in the field through a one-time achievement (that is a major, internationally recognized award). If a petitioner does not submit this documentation, then it must provide sufficient qualifying evidence indicating that she meets at least three of the ten criteria 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 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); *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").

II. ANALYSIS

A. Evidentiary Criteria

Under the regulation at 8 C.F.R. § 204.5(h)(3), the Petitioner, as initial evidence, may present a one-time achievement that is a major, internationally recognized award. In this case, the Petitioner has not claimed or shown that she is the recipient of a qualifying award at a level similar to that of the Nobel Prize. As such, the Petitioner must show she meets at least three of the ten types of documentation listed under 8 C.F.R. § 204.5(h)(3)(i)-(x) to satisfy the basic eligibility requirements.

On appeal, the Petitioner specifically challenges the Director's findings relating to regulatory criteria at 8 C.F.R. §§ 204.5(h)(3)(i), (ii), (iii), (v), and (vi). Although the Director found that the Petitioner had met the criterion at 8 C.F.R. § 204.5(h)(3)(iv), for the reasons discussed below, we disagree with the Director. Except as stated above, the Petitioner does not continue to maintain she meets, and has not argued that the Director erred in regard to, any other enumerated criteria, and they will not be discussed in this decision.

For the reasons discussed below, the Petitioner has not demonstrated that she meets any of those criteria.

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Documentation of the alien's receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor.

On appeal, the Petitioner maintains that she meets this criterion by virtue of having received the [REDACTED] the [REDACTED] and several [REDACTED] awards. To satisfy this criterion, not only must the petitioner demonstrate her receipt of prizes and awards, but she must also demonstrate that those prizes and awards are nationally or internationally recognized for excellence in the field of endeavor, which, by definition, means that they are recognized beyond the awarding entity.

The Petitioner challenges the Director's assessment of the [REDACTED] as having been determined by votes from audience members and, therefore, not representative of a nationally recognized prize for excellence in the field. The Petitioner relies on letters from individuals who know her and her work, a Chinese language certificate stating that she was "awarded as the [REDACTED] in 2006," a document entitled "Introduction to [the] [REDACTED] with sections in English and Chinese, and a document entitled "[REDACTED] with sections in English and Chinese."²

The regulation at 8 C.F.R. § 103.2(b)(3) provides in pertinent part: "Any document containing foreign language submitted to USCIS shall be accompanied by a full English language translation which the translator has certified as complete and accurate, and by the translator's certification that he or she is competent to translate from the foreign language into English." The Petitioner submitted a single document entitled "Affidavit of Translation of Foreign Documents." In this document, [REDACTED] attests that he read and translated all of the "enclosed Chinese documents from Chinese to English." The record is not clear, however, as to which documents, if any, the translator's affidavit pertains. The submission of a single translation certification that does not specifically identify the document or documents it accompanies does not meet the requirements of the regulation at 8 C.F.R. § 103.2(b)(3). Because the Petitioner did not submit properly certified translations of the documents, we cannot determine whether the evidence supports the Petitioner's claims.

The document "Introduction to [the] [REDACTED] describes the award as "a comprehensively national award of television art which is carried out by [REDACTED] along with [REDACTED] and also is the only television art award which is mainly determined by audience vote." The document, entitled "Chapter 3: the organizing committee and the selection committee," identifies those individuals who are responsible for organizing the awards ceremony, and indicates that the organizing committee hires the "jury" which has a nominating role for the "works award" and the "individual award." Neither document sets forth the criteria which are used to select award recipients or to select the members of the jury who would make nominations for the awards. The Petitioner provided a description of the [REDACTED]

¹ Throughout the record, the Petitioner uses alternate spellings for this award: [REDACTED]. We will use [REDACTED] throughout this decision.

² The Petitioner refers to the latter document as a "[REDACTED] criteria."

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_____ which she attributes to _____. While the article enumerates the requirements for the award, it does not demonstrate that the award is nationally or internationally recognized or that it has any recognition beyond the awarding entity.³

The Petitioner submitted letters from various individuals who attest to her recognition within the field of television production. All of the authors mention the Petitioner's receipt of the _____ and most claim that the award represents the highest achievement for a television personality. However, none identified any objective standards by which the _____ recipients are chosen or demonstrated that the award is recognized beyond the presenting organization. Further, none discussed any objective evidence to support their contention regarding the Petitioner's recognition in her field. The documents and testimonial letters provided by the Petitioner do not demonstrate that the _____ is a nationally or internationally recognized award for excellence in the Petitioner's field of endeavor.

The Director found that the _____ did not specifically relate to the Petitioner's field of endeavor. In her appellate brief, the Petitioner characterizes the award as a "national" and "general" honor granted to women who have made a variety of contributions to society. She further maintains that "although it is not a specific award for a TV host or TV artist," it is granted to women who are at the top of their respective fields.

The Petitioner provided a document, entitled "_____" reflecting that it is an "honorary title which is awarded to the outstanding women on _____". The document indicates that the Petitioner "was awarded with the title of _____ in 2008" and that she was also "awarded with the title of _____ of _____ in 2007."

The record includes an "Introduction to _____ award." This document describes the award as the "highest honor that the _____ gives to the country's best women," recognizing "various fields [*sic*] of women, which has become a typical way to encourage women to make contribution to the society." The Petitioner, however, provided no documentation from the awarding organization which sets forth the criteria for granting the award. The Petitioner cannot meet the burden of proof simply by claiming a fact to be true without supporting documentary evidence. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm'r 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg'l Comm'r 1972)); *see also Matter of Chawathe*, 25 I&N Dec. 369, 376 (AAO 2010). The Petitioner must support assertions with relevant, probative, and credible evidence. *See Matter of Chawathe*, 25 I&N Dec. at 376.

Further, rather than recognition of specific achievement in one's field, according to the Petitioner's statements in her appellate brief, the _____ is meant to promote "self-esteem,"

³ We further note that _____ is an online, open-source, collaborative encyclopedia that explicitly states it cannot guarantee the validity of its content. *See General Disclaimer*, _____ (June 22, 2016, 1:41 PM), _____ General_disclaimer; *Badasa v. Mukasey*, 540 F.3d 909 (8th Cir. 2008).

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“confidence,” “independence,” and “self-improvement.” As such, it would not appear to be an award for demonstrated achievement in the Petitioner’s field of endeavor. Consequently, the Petitioner has not demonstrated that the [REDACTED] is a nationally or internationally recognized award for excellence in her field.

The record also contains evidence relating to the [REDACTED] which appears to grant multiple levels of recognition, such as a “[REDACTED]” etc. According to the evidence, the Petitioner received the “[REDACTED]” in 1996 and 1997 and was nominated for the award in 2010. The Petitioner provided no evidence of the requirements for these awards.

The Petitioner mentions other awards, such as the [REDACTED] as well as those granted by the [REDACTED] such as the 2008 “[REDACTED]” [REDACTED]. The Petitioner provided no objective, documentary evidence to establish the basis for any of the awards identified, such as the criteria for receipt of the prizes, the qualifications of the judges, the population of candidates for the awards, or the names of past award recipients. The record contains no evidence to demonstrate that any of the awards are nationally or internationally recognized.

As the Petitioner provided no documentary evidence which demonstrates that she has received nationally or internationally recognized prizes or awards for excellence in television hosting or production, the Petitioner has not established that she meets this regulatory criterion.

Documentation 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.

On appeal, the Petitioner states that she meets this criterion because rather than being a “mere member” of the associations identified, she is an officer which would denote that she is “respected among her peers” and has “extraordinary achievements in the field.” To meet this criterion, a petitioner must show that the association requires outstanding achievement as an essential condition for admission to membership. Membership requirements based on employment or activity in a given field, minimum education or experience, standardized test scores, grade point average, recommendations by colleagues or current members, or payment of dues do not satisfy this criterion as such requirements do not constitute outstanding achievements.

The Petitioner provided evidence of her involvement with five entities, in the following capacities:

- Member of the [REDACTED]
- Vice General Secretary of the [REDACTED] for 2007 and 2015
- General Secretary of the [REDACTED] and Vice General Secretary for [REDACTED]
- [REDACTED] and Board Member for the 2007 and 2015 [REDACTED]

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- Adjunct Professor at the [REDACTED]

The Petitioner maintains that while the [REDACTED] consists of “all Chinese TV artists,” the Host Committee is limited to experts. The Petitioner employs the same reasoning when addressing her roles with the [REDACTED] the [REDACTED] and the [REDACTED]. Holding an official position within an organization, without evidence of the requirements for the position, does not show that demonstrable, outstanding achievements, as judged by recognized national or international experts in the fields, are prerequisites for holding the position. With the exception of the [REDACTED] which the evidence does not establish requires outstanding achievements of its prospective members, the Petitioner provided no evidence of the membership requirements for the organizations. Further, the Petitioner provided no requirements for attaining the official positions which she held. She has not, therefore, shown that any of her positions beyond “mere membership” meet this criterion.

The evidence associated with the last two enterprises named by the Petitioner does not show that she was a member of an association. The Petitioner provided certificates that attest to her involvement in the [REDACTED] for 2007 and 2015, as well as her election to board membership for the same conferences. The evidence does not demonstrate that the Petitioner was a member of the association, only that she was involved in the [REDACTED]. With respect to the Petitioner’s adjunct professorship at [REDACTED] she has not shown that this institution is an association or that it requires outstanding achievements of their adjunct professors.

According to the Petitioner, she served as a judge for awards ceremonies, but there is no evidence indicating that her participation constituted membership in an association requiring outstanding achievement of its members. The regulations contain a separate criterion for judging the work of others, 8 C.F.R. 204.5(h)(3)(iv). It is not assumed that evidence relating to or even meeting the judging criterion is presumptive evidence that the petitioner also meets this criterion. To hold otherwise would render meaningless the regulatory requirement that a petitioner meet at least three separate criteria. The Petitioner’s participation as a judge will be considered later in this decision.

On appeal, the Petitioner contends that her appointments distinguish her from ordinary members of the aforementioned associations and institutions. The Petitioner, however, did not provide documentary evidence demonstrating the requirements for being a leader or a judge for any of the organizations identified, with the exception of the [REDACTED] discussed above. The Petitioner has not demonstrated that any of the associations, committees or organizations require outstanding achievements of their members, as judged by recognized national or international experts in their disciplines or fields, as requirements for membership. Accordingly, the Petitioner does not meet this criterion.

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Published 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. Such evidence shall include the title, date, and author of the material, and any necessary translation.

In general, in order for published material to meet this criterion, it must be about the petitioner and, as stated in the regulations, be printed in professional or major trade publications or other major media. To qualify as major media, the publication should have significant national or international distribution. Some newspapers, such as the *New York Times*, nominally serve a particular locality but would qualify as major media because of significant national distribution, unlike small local community papers.⁴ Furthermore, the regulation requires that "such evidence shall include the title, date, and author of the material, and any necessary translation."

On appeal, the Petitioner refers to the group of articles from [REDACTED] and [REDACTED] claiming that she was the central focus of these articles and that they were published in media which are both major and nationally circulated. While the four [REDACTED] articles mention the Petitioner and her work in the field of television production, two do not identify the respective authors. Additionally, the description supplied for each article appears to have been obtained from [REDACTED] which is a search engine and not a publication, and in none of the cases is the author or source material identified. Consequently, none of the material in the description can be corroborated. Furthermore, while the two articles from [REDACTED] both describe the Petitioner's work as a television host, the authors of these articles are not identified, as required by the regulation at 8 C.F.R. § 204.5(h)(3)(iii).

The Petitioner provided no objective, verifiable evidence demonstrating that any of the publications in which the various articles and reports appeared constitute professional or major trade publications or other major media. For example, the Petitioner provided no evidence of the circulation figures for any of the publications. According to its introduction, the [REDACTED] is a local newspaper serving "[t]he distinct personality of the society, in [REDACTED] especially the press in [REDACTED]" Though the introduction states that the [REDACTED] has more than 500,000 readers, the Petitioner did not identify the source for this figure.

In a letter which accompanies the appellate brief, the Petitioner also mentions articles that appeared in [REDACTED] and [REDACTED]. The [REDACTED] article appears to be about the Petitioner but the author is not identified. The record does not contain copies of the [REDACTED] or the [REDACTED].

⁴ Even with nationally-circulated newspapers, consideration must be given to the placement of the article. For example, an article that appears in the *Washington Post*, but in a section that is distributed only in Fairfax County, Virginia, for instance, cannot serve to spread an individual's reputation outside of that county.

⁵ In her appellate brief, the Petitioner referred to the [REDACTED]. However, the record of proceeding contains articles from [REDACTED] as well as the [REDACTED]. We are here assuming that the Petitioner is referring to the former.

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articles. Included in the record are other articles that the Petitioner does not address on appeal. Nevertheless, these articles (e.g., [redacted]

[redacted] are either not about the Petitioner and her work in the field or have not been demonstrated to have been published in professional or major trade publications or other forms of major media (e.g., [redacted]

[redacted] [sic]).

As indicated above, the Petitioner's documentary evidence does not satisfy the regulation at 8 C.F.R. § 204.5(h)(3)(iii) requiring "the title, date, and author of the material." While the Petitioner submitted a few articles reflecting published material about herself and her work, she did not demonstrate that the material was published in professional or major trade publications or other major media. The burden is on the Petitioner to establish every element of this criterion. Accordingly, the Petitioner does not meet this criterion.

Evidence of the alien's participation, either individually or on a panel, as a judge of the work of others in the same or an allied field of specification for which classification is sought.

The Director determined that the Petitioner established eligibility for this criterion. However, a review of the record of proceeding reflects, for the reasons outlined below, that the Petitioner submitted insufficient documentary evidence establishing that the Petitioner meets the plain language of the regulation. The plain language of the regulation at 8 C.F.R. § 204.5(h)(3)(iv) requires "evidence of the alien's participation, either individually or on a panel, as a judge of the work of others in the same or an allied field of specialization for which classification is sought."

The Petitioner provided the following documentary evidence:

- Two copies of certificates for the [redacted] and a section of the regulations for this organization
- A partial copy of a certificate for the [redacted] a document bearing the heading "Chapter 3: the organizing committee and the selection committee," and an eight-page foreign language document with no translation
- A copy of a certificate from the [redacted] relating to the "[redacted] Award, a copy of a certificate pertaining to the "Broadcast and Host major entrance exams," a copy of a certificate pertaining to "[redacted]" and a document bearing the heading "Introduction to the [redacted]"

While some of the certificates mention the Petitioner's appointment or invitation to serve as a judge, none of the documents demonstrate that she actually functioned in the capacity of judge for any specific competition. The certificates from the [redacted] both refer to the Petitioner's having been named a judge of "national column plays competitions." The certificate from the [redacted] relating to the [redacted]

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mentions that the Petitioner “used to be the judge of the [redacted]” but does not indicate which category she judged or her dates of participation. The certificate from the [redacted] pertaining to the “[redacted] award, states that the Petitioner was invited to be a judge for the third award. The certificate from the [redacted] states that the Petitioner was “[i]nvited as the judge of the Broadcast and Host major [sic] entrance exams by [redacted] as well as a member of [redacted] professor group.” The “Honor Certificate” from the [redacted] does not mention the Petitioner or any work which she might have performed for the organization.

As there is no evidence demonstrating that the Petitioner has participated individually or as a member of a panel, as a judge of the work of others in the same or an allied field of specification for which classification is sought, the Petitioner has not established that she meets this regulatory criterion, and the Director’s finding on this criterion is withdrawn.

Evidence of the alien’s original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field.

On appeal, the Petitioner maintains that she meets this criterion by virtue of the fact that she is the first television host to launch a “person to person live talk show in China [redacted]”; that her television program “[redacted] (Workshop)” is the first program in China to be named after its host”; and that “she was selected by the country’s TV delegation as the host for the 2006 [redacted]” To satisfy this criterion, a petitioner’s contributions must be both original and of major significance in the field. 8 C.F.R. § 204.5(h)(3)(v). The term “original” and the phrase “major significance” are not superfluous and, thus, they have some meaning. *Silverman v. Eastrich Multiple Investor Fund, L.P.*, 51 F. 3d 28, 31 (3rd Cir. 1995) quoted in *APWU v. Potter*, 343 F.3d 619, 626 (2nd Cir. Sep 15, 2003).

The Petitioner references a letter bearing a foreign language heading with an English subheading/translation stating “[redacted] Producer and Host.” The letter addresses the Petitioner’s involvement in the television program [redacted] stating that she served as the host of the first talk show which involved allowing audience members to share their “emotional feelings” and interpersonal relationships. The author states that due to the Petitioner’s “excellent work” the program was renamed “[redacted] in 2007, the first such occurrence for [redacted] While the letter appears to be from [redacted] it does not identify the name or title of its author. Additionally, although the letter states that the Petitioner was the host and producer of [redacted] it does not identify the Petitioner as the creator of the show. Further, the letter does not indicate the show’s impact upon the field of television talk shows, as a whole, outside of the [redacted] or its major significance in the field.

The record of proceeding contains testimonial letters that address the Petitioner’s work in the television industry. The authors speak of the Petitioner’s involvement with the television program, [redacted] which some identify as the “first person-to-person live talk show program in China.” [redacted] Secretary General, [redacted]

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_____ also notes the changing of the program's name to _____ indicating that this was the first such occurrence "for _____"

Many of the authors of the letters claim that the Petitioner either created or had a significant role in the creation of _____. The authors also state that it was the first program of its kind: a "person-to-person live talk show." However, the Petitioner provided no evidence demonstrating that the show _____ or her other broadcast work represented a contribution of major significance in the field as a whole.

The Petitioner hosted the 2006 _____ a performance which _____ former under-Secretary-General of the _____ and President of _____ (2007-2012), described as "witty and humorous," and engaging. However, while her selection to host this _____ might be considered an honor, the Petitioner has not demonstrated how it constitutes an original contribution of major significance to her field of endeavor.

Solicited letters that do not specifically identify contributions or include specific examples of how those contributions influenced the field as a whole are insufficient to meet this criterion. *Kazarian*, 580 F.3d at 1036.⁶ 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 offered 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 a foreign national's eligibility for the benefit sought. *Id.* The submission of letters from experts supporting the petition is not presumptive proof of eligibility; USCIS may, as this decision has done above, evaluate the content of those letters with regard to whether they support the Petitioner'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 Visinscaia*, 4 F. Supp. 3d at 134-35 (upholding our decision to give minimal weight to solicited letters from colleagues or associates that do not provide details on contributions of major significance in the field).

The Petitioner provided evidence that shows she has been involved in at least one television program which appears to have enjoyed a certain amount of success within the _____. However, the Petitioner has provided no documentary evidence which demonstrates that her work has affected the television industry at a level indicative of a contribution of major significance in the field. As such, the Petitioner has not established that she meets this criterion.

⁶ In 2010, the *Kazarian* court reiterated that our conclusions that "letters from physics professors attesting to [the self-petitioner's] contributions in the field" were insufficient was "consistent with the relevant regulatory language." 596 F.3d at 1122.

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Evidence of the alien's authorship of scholarly articles in the field, in professional or major trade publications or other major media.

On appeal, the Petitioner makes reference to articles which were submitted initially and remarks that they should be given weight because it is considered unusual for a television host to publish written works. Generally, scholarly articles are written by and for experts in a particular field of study, are peer-reviewed, and contain references to sources used in the articles.

The Petitioner claims to have authored three articles which were published in [REDACTED] published in February 2006, [REDACTED] published in 2001; and [REDACTED] which was undated. The Petitioner provided no documentary evidence to demonstrate that [REDACTED] is a professional or major trade publication or other form of major media. Further, in this instance, there is no documentary evidence demonstrating that the Petitioner's works were peer-reviewed, contain any references to sources, or were otherwise considered "scholarly." Additionally, the Petitioner provided no evidence demonstrating that the third article was published in either [REDACTED] or in any other publication. The article contains a heading above the title, reading [REDACTED];

The Petitioner provided copies of other works, which she identifies in her opening brief, as "Essay contests or seminar submissions and awards verifications." None of these works bear any indication that they were published in any media.

The Petitioner submitted an English language letter from [REDACTED] Senior Editor of [REDACTED]. In his letter, [REDACTED] states that the Petitioner "published an article, titled [REDACTED] on [sic] [REDACTED] Issue 8, 2006." According to [REDACTED] the article was meant to explain the basis for the success of the Petitioner's program [REDACTED]. The Petitioner also provided an English language document, entitled "[REDACTED]" which bears no authorial identification but contains the name [REDACTED] at the bottom of the document. According to this statement, [REDACTED] is "Co-sponsored by [REDACTED]". The document states that [REDACTED] is a Grade-A provincial level publication that reports on journalism, media and communication related topics." The Petitioner provided no circulation information for this publication and has not demonstrated that it qualifies as a professional or major trade publication or other form of major media. Further, the Petitioner did not provide the article attributed to her in this piece and has not demonstrated that it is a scholarly publication.

The evidence in the record shows that the Petitioner has written articles for publications which report on issues pertaining to local media. The evidence indicates that the Petitioner has also written essays, either for contests or for academic assignments. However, the Petitioner has provided no

⁷ This is the spelling as it appears on the letter.

documentary evidence to demonstrate that she has written any scholarly articles which have been published in professional or major trade publications or other major media. Therefore, the Petitioner has not met this criterion.

III. CONCLUSION

The documents submitted in support of extraordinary ability must show that the individual has achieved sustained national or international acclaim and is one of the small percentage who has risen to the very top of his or her field of endeavor. Had the Petitioner provided evidence satisfying at least three evidentiary categories, the next step would be a final merits determination that considers all of the filings 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 field of endeavor,” and (2) that the individual “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)(2), (3); *see also Kazarian*, 596 F.3d at 1119-20 (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). Although we need not provide the type of final merits determination referenced in *Kazarian*, a review of the record in the aggregate supports a finding that the Petitioner has not established the level of expertise required for the classification sought.

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, that burden has not been met.

ORDER: The appeal is dismissed.

Cite as *Matter of T-C-*, ID# 16827 (AAO June 24, 2016)