



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

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

MATTER OF F-R-

DATE: JULY 18, 2017

APPEAL OF TEXAS SERVICE CENTER DECISION

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

The Petitioner, an advertising creative director, seeks classification as an individual of extraordinary ability in business. *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 Form I-140, Immigrant Petition for Alien Worker, concluding that the Petitioner had satisfied only two of the ten initial evidentiary criteria, of which he must meet at least three.

On appeal, the Petitioner submits a brief stating that he meets five criteria and has shown extraordinary ability in his field.

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

I. LAW

Section 203(b)(1)(A) of the Act makes visas available to immigrants with extraordinary ability 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 two options for satisfying this classification's initial evidence

requirements. First, a petitioner can demonstrate a one-time achievement (that is a major, internationally recognized award). Alternatively, he or she must provide documentation that meets at least three of the ten categories of evidence 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).

Where a petitioner meets these initial evidence requirements, we then consider the totality of the material provided in a final merits determination and assess whether 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. *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). This two-step analysis is consistent with our holding that the “truth is to be determined not by the quantity of evidence alone but by its quality,” as well as the principle that we examine “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.” *Matter of Chawathe*, 25 I&N Dec. 369, 376 (AAO 2010).

II. ANALYSIS

The Petitioner currently works as the president and creative director of [REDACTED] an advertising agency in Venezuela. Because he has not established that he has received a major, internationally recognized award, the Petitioner must satisfy at least three of the alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x) to meet the initial evidentiary requirements.

A. Evidentiary Criteria

The Director found that the Petitioner met the judging criterion under 8 C.F.R. § 204.5(h)(3)(iv). The record contains evidence of his participation as a juror for competitions such as the [REDACTED] newspaper’s photography contest, and [REDACTED] Awards. In addition, the Director determined that the Petitioner satisfied the high salary criterion at 8 C.F.R. § 204.5(h)(3)(ix) based on his compensation from [REDACTED]. His evidence included documentation of his earnings and the results from a 2014 salary survey performed by the [REDACTED] reflecting that he received a high salary relative to other creative directors.

Furthermore, the record indicates that the Petitioner has received nationally recognized awards satisfying the criterion at 8 C.F.R. § 204.5(h)(3)(i). For example, he received the first place award in [REDACTED] newspaper’s [REDACTED] advertising competition. The level of recognition and excellence of the aforementioned award is supported by media coverage. Moreover, the evidence shows that the Petitioner meets the published material criterion under 8 C.F.R. § 204.5(h)(3)(iii) based on articles about him in professional publications such as [REDACTED] and [REDACTED].

█ Lastly, he satisfies the leading role criterion under 8 C.F.R. § 204.5(h)(3)(viii), as he has performed in a leading role for █ an organization whose distinguished reputation is demonstrated through numerous awards, news articles, and industry rankings.

B. Final Merits Determination

As the record satisfies three or more of the regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x), we will analyze the Petitioner's accomplishments and weigh the totality of the evidence to determine if his successes are sufficient to demonstrate that he has extraordinary ability in the field of endeavor. We will evaluate whether he has demonstrated, by a preponderance of the evidence, that he has sustained national or international acclaim and that his achievements have been recognized in the field through extensive documentation, making him one of the small percentage who have risen to the very top of 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 the present matter, the Petitioner has shown his eligibility for this classification.

The Petitioner has demonstrated an acclaimed career working in a leading or critical role as creative director for distinguished organizations such as █ (1995 – 2000), █ (2000 – 2008), and █ (2008 – present). In his current role, the Petitioner has received a high salary that is consistent with sustained national acclaim at the very top of his field. For example, the survey results from █ show that his 2014 salary was significantly above the upper earnings range for Venezuelan creative directors. The evidence also indicates that the Petitioner and the advertising agencies he led have won numerous awards and honors for their projects. In addition to winning first place in █ newspaper's █ advertising competition, other significant awards for his work include a '█ from █ and a '█ prize at the "█ Awards. Media reports and information from the contests' organizers show that the aforementioned awards are indicative of national recognition at the very top of the Petitioner's field. His projects have also received multiple gold, silver, and honorable mention awards from █ Moreover, the record reflects that his work has received awards at the █ and honors from the █ competitions.

Furthermore, the Petitioner offered numerous articles about him and his work in █ and █ We find that the extensive coverage of the Petitioner in reputable professional publications is indicative of his sustained national acclaim in the Venezuelan advertising industry.

The record also indicates that the Petitioner has participated as a judge for multiple national and international level competitions such as the █ Awards, █ newspaper's photography contest, █ magazine awards, and █ Awards. We evaluate the significance of his judging experience to determine if such evidence is indicative of his extraordinary ability as required for this highly restrictive classification. *See Kazarian*, 596 F. 3d at 1121-22. In this instance, the Petitioner has provided media reports and information from the contests' organizers

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showing that the competitions he judged involved experienced professionals and were reflective of his national acclaim in the advertising industry. We find that his participation as a juror in the aforementioned competitions is consistent with a determination that he is among the small percentage at the top of his field of endeavor. *See* 8 C.F.R. § 204.5(h)(2).

III. CONCLUSION

The Petitioner has shown that he meets at least three of the evidentiary criteria listed at 8 C.F.R. § 204.5(h)(3)(i)-(x). He has also demonstrated sustained national and international acclaim and that his achievements have been recognized through extensive documentation. Finally, the Petitioner has indicated that he intends to continue working in his area of expertise. He therefore qualifies for classification as an individual of extraordinary ability.

ORDER: The appeal is sustained.

Cite as *Matter of F-R-*, ID# 455823 (AAO July 18, 2017)