



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

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

MATTER OF J-M-K-I-

DATE: AUG. 3, 2018

APPEAL OF NEBRASKA SERVICE CENTER DECISION

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

The Petitioner, a landscape architect, seeks classification of the Beneficiary 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 Nebraska Service Center denied the Form I-140, Immigrant Petition for Alien Worker, concluding that the Beneficiary met the required three of the ten initial evidentiary criteria but that she did not qualify for extraordinary ability classification in the final merits analysis. The Petitioner then filed a joint motion to reopen and reconsider that the Director denied.

On appeal, the Petitioner submits additional evidence and contends that she meets nine criteria.

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, memberships, and published material in certain media).

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 is a landscape architect. As the record does not establish that she has received a major, internationally recognized award, she must satisfy at least three of the ten criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x).

A. Evidentiary Criteria

The Director held that the Petitioner met the judging, scholarly articles, and display criteria at 8 C.F.R. § 204.5(h)(3)(iv), (vi), and (vii), respectively, but that she did not meet the following: awards, membership, and published material at 8 C.F.R. § 204.5(h)(3)(i), (ii) and (iii). Because she met the three initial requirements, the Director considered the evidence in the record regarding a final merits determination and concluded that the Petitioner had not established sustained national or international acclaim in the field for this classification.

We agree with the Director that the Petitioner meets the judging, scholarly articles, and display criteria. For judging, the record reflects that the Petitioner participated as a jury member of the architecture competition [REDACTED] in Norway and as an external critic of [REDACTED] for [REDACTED] The Netherlands.

For scholarly articles, the record contains evidence that the Petitioner’s designs were included in [REDACTED] which [REDACTED] states is “a database comprised of images that may be

copied in order to produce architecture” and that the book “is a receptacle of a collective form of knowledge that we can provisionally call ‘architecture.’” The record contains excerpts from the Petitioner’s entry into the landscape design competition in the book [REDACTED], which constitutes an article written for learned individuals with profound knowledge of that field.¹

For display, the record demonstrates that the Petitioner displayed her work at the [REDACTED] in [REDACTED] in [REDACTED] in [REDACTED] and London and in [REDACTED] in [REDACTED] and [REDACTED] Switzerland. Therefore, we find that the Petitioner meets three of the ten criteria listed at 8 C.F.R. § 204.5(h)(3). Accordingly, we will evaluate the totality of the evidence in the context of the final merits determination below.²

B. Final Merits Determination

As the Petitioner has submitted the requisite initial evidence, we will evaluate whether she has demonstrated, by a preponderance of the evidence, that she has sustained national or international acclaim and is one of the small percentage at the very top of the field of endeavor, and that her achievements have been recognized in the field through extensive documentation. 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 shown her eligibility for this classification.

For awards, the Petitioner submits evidence of four awards she has received in international landscape design competitions. The record reflects that the Petitioner won first place in the [REDACTED] competition in 2008 from among 137 teams from around the world. [REDACTED] a Swedish architect and former Director of the [REDACTED] states in her letter that the Petitioner’s award for the [REDACTED] project “was very impressive as open international competitions often attract hundreds of entries, including large well known practices,” adding that this award “gave her a reputation as one of the most promising and talented young architects in urban planning in Scandinavia.”

Next, the evidence shows that the Petitioner won second place out of 1000 entries in the [REDACTED] in 2008. The record reflects that the [REDACTED] an international magazine based in [REDACTED] Spain organized the competition and that the winning projects were published in the book [REDACTED]. The record also demonstrates that the Petitioner won second place of 180 applicants in the [REDACTED] in 2008 concerning [REDACTED]. This entry was published in [REDACTED] by the [REDACTED] in 2009.

¹ See USCIS Policy Memorandum PM-602-0005.1, Evaluation of Evidence Submitted with Certain Form I-140 Petitions. <https://www.uscis.gov/sites/default/files/USCIS/Laws/Memoranda/i-140-evidence-pm-6002-005-1.pdf>

² On appeal, the Petitioner maintains that she also meets the criteria relating to membership at 8 C.F.R. § 204.5(h)(3)(ii), published material at 8 C.F.R. § 204.5(h)(3)(iii), original contributions at 8 C.F.R. § 204.5(h)(3)(v), salary at 8 C.F.R. § 204.5(h)(3)(ix), and commercial success at 8 C.F.R. § 204.5(h)(3)(x). Because the Petitioner meets three criteria to thus warrant a final merits determination, we will address the facts relating to these criteria in the final merits analysis.

The Petitioner is listed as one of the winners of the 2011 Europe 40 under 40. The webpage from worldarchitecturenews.com states that this is an annual award given by the [REDACTED]

and [REDACTED]

The record also indicates that the Petitioner was a second phase finalist in 2010 for the [REDACTED] at the [REDACTED] open competition in [REDACTED]

Norway.

The Director held that the Petitioner had not established that these awards are nationally or internationally recognized, that the evidence does not provide the significance and scope of the awards or the requirements for the competitions and the criteria utilized to select the recipient. The Director also noted that the record does not indicate that the results are reported by major media, further concluding that second place awards do not constitute national or international awards but amount to placement in a subjective contest or event.

On appeal, the Petitioner provides additional evidence regarding the background and scope of the competitions, the expertise of the judges, and the published material about these awards. We find that this evidence demonstrates that the awards discussed above are international in scope as judged by renowned international experts in the field. The evidence also establishes that the Petitioner has received international press coverage regarding these awards in professional publications such as [REDACTED] the oldest journal of architecture in Denmark; and in [REDACTED] an Italian architectural magazine with distribution in 60 countries. This evidence, together with the documentation discussed below, shows the Petitioner has received international acclaim for the awards she has received.

With respect to membership, the record reflects that the Petitioner was a member of the board of directors for the [REDACTED] from 2010 to 2014 and a member of the board of [REDACTED] a Swedish charitable organization supporting art and architecture, from 2012 to 2014. The Director held that the Petitioner's membership on these boards did not constitute sustained acclaim because she is no longer a member. On appeal, the Petitioner submits evidence demonstrating that membership on these boards is limited to a four-year term. Regarding the function and scope of these boards, the [REDACTED] website specifies that it "organized lectures and viewings for its members, and initiates debates on current issues regarding architecture, interior architecture, landscape architecture and urban planning." In her letter, [REDACTED] attests to the Petitioner being a member of the board of the [REDACTED] from 2010 to 2014, stating that this is an honorary position and that she and the Petitioner "collaborated in organizing a series of urban seminars and lectures for the association." She further adds that the Petitioner "has been important for the architecture development in Sweden by her research for an Architecture Fund, which also received a grant from the city of [REDACTED] She states that "[h]er research for the fund influenced the proposal for a new architecture policy that was commissioned by the [REDACTED] [REDACTED] This demonstrates that the Petitioner's work on the board of directors for the [REDACTED] supports a finding of national acclaim in the field.

_____ the chair of the board of _____, states in her letter that the Petitioner was a member of the board from 2012 to 2014 after being nominated by the _____. She states that “[t]he Board of Directors is comprised of representatives of distinguished art organizations” and that they meet at _____ in _____. _____ asserts that the Petitioner was responsible for transforming the competition titled, _____ into an international competition, which was held in 2015. In addition, _____ Senior Urban Designer and Partner at _____ in _____ states in his letter that he and the Petitioner “collaborated on organizing a debate on Swedish and Dutch architecture that was held at the _____ in _____ in the spring of 2013” while they were on the board of directors for the _____. We find that the evidence in the record establishes that the Petitioner’s national and international work on the board of directors for the _____ and _____ discussed above, further adds to her acclaim in the totality of the evidence.

For published material, the Director held that the evidence does not demonstrate that the publications submitted constitute published material in professional publications or major media reflecting national or international acclaim. The record contains an article entitled, “_____ [the Petitioner]” published in the professional magazine _____ which the evidence demonstrates is an architecture and design publication based in _____ that focuses on the Nordic region. This article displays the Petitioner’s photograph and states, “The 34-year-old Swedish landscape architect . . . is one of those responsible for transforming the _____ area into a town.” The record also establishes that the professional publication _____ published an article about the Petitioner and her views on landscape architecture entitled, _____. _____ The evidence in the record demonstrates that _____ is a Swiss journal for landscape architecture printed in French and German. We conclude that these publications further establish the Petitioner’s national and international acclaim in the field.

Under judging, the record indicates that the Petitioner participated as an external critic of _____ for the _____ and as a juror for _____ in Norway. While this evidence does not demonstrate a large number of judging events, the evidence in the record supporting the other criteria demonstrates that she has risen to the top of her field.

With respect to scholarly articles, the record contains evidence that the Petitioner’s designs were included in _____ which _____ states is “a receptacle of a collective form of knowledge that we can provisionally call ‘architecture.’” The record also contains excerpts from the Petitioner’s entry into the landscape design competition in the book _____. While the record does not contain evidence that establishes the Petitioner’s acclaim from these publications, the article discussed above in the _____ magazine demonstrates the extent of her acclaim from the _____ competition, and the detailed summary of this entry is contained in the book _____ the editor for _____ and architect at _____, states in his letter that the Petitioner “is one of the most interesting European architects of her generation, and . . . provides a distinctively personal approach to

urbanism and landscape design.” When viewed together, this evidence further establishes the Petitioner’s acclaim in the field.

For display, the Director held that the Petitioner has not demonstrated that the exhibitions where she presented are of distinction and that her work was of such significance to establish sustained national or international acclaim. The evidence indicates that the Petitioner exhibited her work at the [redacted] in [redacted] in [redacted] by [redacted] in [redacted] and for the [redacted] and in [redacted] in [redacted] and [redacted] Switzerland. [redacted] states that he invited the Petitioner to contribute to the show [redacted] for the [redacted] of 2012. He also asserts that the Petitioner “contributed to our show [redacted] that was presented in several European cultural venues (among them the [redacted] the [redacted] and the [redacted] [redacted] in [redacted] and that was published as a set of books in 2015.” The evidence in the record establishes that the [redacted] hosted one of these exhibitions in which the Petitioner presented her works in [redacted]. The record contains a webpage overview of the [redacted] which states that it “was founded in 1895 and it is now one of the most famous and prestigious cultural organizations in the world” and indicates that “[t]he [redacted] has also been recognized as the best in the world.” Together, this evidence demonstrates that the display of the Petitioner’s work has reached international venues, further establishing her international acclaim in the field.

Under salary, the record reflects that the Petitioner received significant compensation for the awards discussed above.³ The record indicates that the Petitioner received payment in the amount of 1,500,000 Norwegian Kroner, which the record shows is equivalent to \$193,337, for reaching the second phase of the [redacted] at the [redacted] competition for her original design of a museum in [redacted] Norway. The record also establishes that the Petitioner was awarded \$49,582 (40,000 Euros) for her first place award in the [redacted] competition, which further supports her claim of having risen to the very top of her field of endeavor.

When considered in the aggregate with the evidence discussed above, the Petitioner has demonstrated that her achievements are reflective of a “career of acclaimed work in the field” as contemplated by Congress. H.R. Rep. No. 101-723, 59 (Sept. 19, 1990). We conclude that the record supports a finding that the Petitioner is among the small percentage at the top of her field of endeavor with sustained national or international acclaim. *See* 8 C.F.R. § 204.5(h)(2)-(3).

³ The record contains a brief email from what appears to be [redacted] stating “2. præmie DKK 300.000,” which the Petitioner states refers to the amount she was awarded in the [redacted]. The record shows this is equivalent to \$50,094. While we will not consider this compensation because the email has not been properly translated under 8 C.F.R. § 103.2(b)(3), we find that the compensation for the other awards demonstrates significantly high compensation on this issue in the totality of the circumstances.

III. CONCLUSION

The Petitioner has shown that she meets at least three of the evidentiary criteria listed at 8 C.F.R. § 204.5(h)(3)(i)-(x). She has demonstrated sustained national and international acclaim and that her achievements have been recognized through extensive documentation. She has also demonstrated that she intends to continue working in her area of expertise and that her admission will benefit prospectively the United States. She therefore qualifies for classification as an individual of extraordinary ability.

ORDER: The appeal is sustained.

Cite as *Matter of J-M-K-I*, ID# 1405051 (AAO Aug. 3, 2018)