



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

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

MATTER OF J-O-O-

DATE: JAN. 26, 2018

APPEAL OF NEBRASKA SERVICE CENTER DECISION

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

The Petitioner, a professional model, seeks classification as an individual of extraordinary ability. *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 petition, concluding that the Petitioner did not satisfy, as required, at least three of the ten initial evidentiary criteria.

On appeal, the Petitioner submits a brief and additional documentation, stating that she meets at least three of the ten criteria. In addition, she maintains that she has established eligibility for the classification.

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

I. LAW

Section 203(b)(1)(A) of the Act makes visas available to qualified foreign nationals 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 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). If that petitioner does not submit this evidence, then he or she must provide documentation that meets at least three of the ten criteria 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 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 professional model. As she has not stated or established her receipt of a major, internationally recognized award, as initial evidence, she must present documents satisfying at least three of the ten criteria under 8 C.F.R. § 204.5(h)(3)(i)-(x).

Documentation of the alien’s receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor. 8 C.F.R. § 204.5(h)(3)(i).

The Petitioner claims that she won two pageant titles in 2007: ‘ [REDACTED] at the [REDACTED] pageant, and ‘ [REDACTED] at the [REDACTED] pageant in Albania. She also indicates that she was the second runner-up at the [REDACTED] pageant in Germany in 2011. In support of these assertions, she submits photographs of herself and other contestants in pageant attire wearing crowns and sashes.

The photographs alone do not satisfy this criterion. The Petitioner has not provided sufficient information on the events, the entities hosting the competitions, or other material to demonstrate that the prizes or awards are nationally or internationally recognized. Further, she has not submitted documentation outlining the number of awardees, the criteria by which awardees are selected, the selection process, the entities that granted the award, or evidence that addresses the reputation of the award within the field. In addition, she has not sufficiently demonstrated that the issuing entities

were recognizing her excellence in the field of endeavor, rather than her participation in a particular event.

The Petitioner also offers evidence in the form of press releases in local newspapers and Internet-based articles acknowledging her receipt of the aforementioned titles. She, however, provides no evidence to establish the popularity or reach of the newspapers or websites such that event coverage by these media outlets is indicative of the national or international recognition of the events.

She also submits a photograph of her holding a certificate, which she claims is a [REDACTED] awarded to her out of 42 contestants by the [REDACTED] in Albania at the [REDACTED] pageant. Other than the photograph, in which the actual certificate is not clearly depicted, there is no additional evidence in the record pertaining to this award, the meaning behind the award, or what the recognition associated with the awards might reflect. In addition, there is no evidence demonstrating that her receipt of this certificate constitutes a nationally or internationally recognized award in her field of endeavor.

The regulation at 8 C.F.R. § 204.5(h)(3)(i) specifically requires that the Petitioner's awards be nationally or internationally recognized in the field of endeavor and it is her burden to establish that she meets every element of this criterion. In this instance, the record contains insufficient documentary evidence demonstrating that her pageant awards are recognized beyond the presenting organizations, or are nationally or internationally recognized prizes or awards for excellence in the field.

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. 8 C.F.R. § 204.5(h)(3)(iii).

The Petitioner has offered a number of articles about her, relating to her receipt of the various pageant titles discussed above. She, however, has not submitted sufficient documents demonstrating that the articles appeared in professional or major trade publications or other major media.

Specifically, she has presented articles that appeared in newspapers, magazines, such as [REDACTED] and a number of websites and blogs. She, however, has not offered sufficient evidence demonstrating that these constitute professional or major trade publications or other major media.

The record contains information on some of the publishers. For example, the Petitioner has presented articles from the websites of [REDACTED] and [REDACTED] which provide overviews of the publications. The [REDACTED] article indicates that it is "one of the leading Newspapers in Nigeria today" with a daily print run of 130,000 copies. Other than self-promotional claims that appear on the publication's website, the Petitioner has not offered independent and credible corroboration

verifying that the newspaper constitutes major media in Nigeria. In addition, the [REDACTED] article does not identify its author. As stated above, the regulation at 8 C.F.R. § 204.5(h)(3)(iii) requires that the published material include the identity of the author. Moreover, while [REDACTED] states that it is Nigeria's "most authentic soft-sell magazine," the record does not include publication or circulation data or other documentation confirming its status as a major media.

The Petitioner also submits numerous excerpts from *Wikipedia*, self-described as "the free encyclopedia that anyone can edit," as evidence of the circulation data of the other publications. There are, however, no assurances about the reliability of the content from *Wikipedia*, an open, user-edited website.¹ See *Badasa v. Mukasey*, 540 F.3d 909 (8th Cir. 2008).

The record also contains copies of various blogs that discuss the Petitioner's awards, such as those by [REDACTED] and [REDACTED] as well as some web-based articles. There is no evidence, such as viewership information, demonstrating that these blogs and websites are qualifying publications under the criterion.²

In light of the above, specifically, the lack of sufficient documentation confirming that the newspapers, magazines, and websites qualify as professional or major trade publications or other major media, the Petitioner has not satisfied 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. 8 C.F.R. § 204.5(h)(3)(iv).

The Petitioner states that she meets this criterion because she was on "the audition team (panel)" for [REDACTED] a Nigerian modeling agency. In support of this assertion, she submits a copy of an advertisement entitled "[REDACTED]" which identifies her as a member of the audition team for auditions held on October 26, 2011. The Petitioner has also submitted a letter from [REDACTED] dated October 30, 2011, thanking her for "judiciously interviewing and

¹ Online content from *Wikipedia* is subject to the following general disclaimer:

WIKIPEDIA MAKES NO GUARANTEE OF VALIDITY. *Wikipedia* is an online open-content collaborative encyclopedia; that is, a voluntary association of individuals and groups working to develop a common resource of human knowledge. The structure of the project allows anyone with an Internet connection to alter its content. Please be advised that nothing found here has necessarily been reviewed by people with the expertise required to provide you with complete, accurate or reliable information **Wikipedia cannot guarantee the validity of the information found here.** The content of any given article may recently have been changed, vandalized or altered by someone whose opinion does not correspond with the state of knowledge in the relevant fields.

http://en.wikipedia.org/wiki/Wikipedia:General_disclaimer, accessed on January 18, 2018, a copy incorporated into the record of proceedings.

² Although the Petitioner claims that [REDACTED] blog is one of the top 10,000 sites in the world, there is no independent evidence to support this assertion.

assessing each model,” and expressing satisfaction with the caliber of models she helped the agency select. As such, the Petitioner has satisfied this criterion.

III. CONCLUSION

The Petitioner has not submitted the required initial evidence establishing that she meets at least three of the ten criteria.³ As a result, we need not provide the type of final merits determination referenced in *Kazarian*, 596 F.3d at 1119-20. Nevertheless, we have reviewed the record in the aggregate, and conclude that it does not sufficiently demonstrate the Petitioner’s sustained national or international acclaim or that her achievements have been recognized in the field through extensive documentation. Accordingly, she has not established she is an individual of extraordinary ability.

ORDER: The appeal is dismissed.

Cite as *Matter of J-O-O-*, ID# 868229 (AAO Jan. 26, 2018)

³ The Petitioner’s asserts that a decision denying a previous petition reached different conclusions than those set forth in the instant matter, and that we should follow the Director’s previous determinations. We are not bound by a decision of a service center or district director. *See La. Philharmonic Orchestra v. INS*, No. 98-2855, 2000 WL 282785, at *2 (E.D. La. Mar. 15, 2000).