



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

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

MATTER OF V-A-

DATE: MAR. 27, 2018

APPEAL OF NEBRASKA SERVICE CENTER DECISION

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

The Petitioner, a journalist, 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 Acting Director of the Nebraska Service Center denied the Form I-140, Immigrant Petition for Alien Worker, concluding that the Petitioner had satisfied only one of the initial evidentiary criteria, of which she must meet at least three. The Director dismissed the Petitioner's subsequently filed motion to reopen and motion to reconsider.

On appeal, the Petitioner presents a new document and a brief, contending that she satisfies at least three criteria.

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

I. LAW

Section 203(b)(1)(A) of the Act makes visas available to qualified 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). If that petitioner does not submit this evidence, then he or she must provide 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).

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 worked for several newspapers in Russia, wrote a book, and now operates a blog in the United States. Because she has not indicated or established 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). In denying the petition, the Director found that the Petitioner met only one of the initial evidentiary criteria, awards under 8 C.F.R. § 204.5(h)(3)(i).

On appeal, the Petitioner maintains that she meets six additional criteria, discussed below. We have reviewed all of the evidence in the record and conclude that it does not support a finding that the Petitioner satisfies the plain language requirements of at least three criteria.

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 Director concluded that the Petitioner met this criterion. A review of the record does not demonstrate her receipt of nationally or internationally recognized prizes or awards for excellence in the field. The Petitioner submitted evidence showing that she received awards from government-related organizations, such as the Russian Ministry of Internal Affairs and the Russian Ministry for Civil Defense, Emergency Management, and Natural Responses, as well as a certificate of appreciation from a United Nations police seminar. The distribution of prizes and awards by

government entities does not necessarily show that they are nationally or internationally recognized in the field as awards for excellence. As evidence, the Petitioner offered recommendation letters from individuals, such as journalist [REDACTED] who explained why the Petitioner received the awards and indicated that they “are awarded only once every two years, while the Honorary Awards are unique in themselves because they were awarded to mark outstanding results of her work and criminal investigations.”¹ The issue here, however, is not the frequency or uniqueness of the awards but whether they are nationally or internationally recognized for excellence in the field.

In addition, the record contains other letters, such as from journalists [REDACTED] and [REDACTED], who each state that “[o]ne cannot underestimate the importance of this award as it clearly demonstrates remarkable professionalism and outstanding abilities of [the Petitioner] in the field of journalism, as witnessed and confirmed by both her peers and top-level experts and officials.” We note that the identical language calls into question whether the letters were prepared by the authors, and therefore diminishes their probative value in establishing that the Petitioner’s awards qualify for this criterion. Regardless, the letters explain why she received the awards without showing that they are nationally or internationally recognized for excellence in the field.

Further, the Petitioner submitted a certificate indicating that she received the “Golden Pen” at the “Practice Day” contest, organized by the journalism faculty at [REDACTED] University [REDACTED] and the [REDACTED]. [REDACTED] further stated that “[t]he judges in the contest were the representatives of the Faculty of Journalism Union as well as the most respected journalist[s].” The letter, however, does not demonstrate that that field beyond [REDACTED] and [REDACTED] recognizes the award for excellence. For these reasons, we withdraw the Director’s findings, and the Petitioner did not establish that she meets this 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. 8 C.F.R. § 204.5(h)(3)(ii).

The Petitioner claims that she meets this criterion based on membership with [REDACTED] and the [REDACTED]. On appeal, she references the letters discussed above, such as from [REDACTED], who stated that “[b]oth organizations require outstanding achievement of their members prior to accepting applicants” and “only the journalists with outstanding achievements can become members of these organizations.” In addition, journalist [REDACTED] asserted that the Petitioner “was a member of two important organizations in the field of journalism that require outstanding achievement of their members” and “owing to her talent and outstanding reporting . . . that she was admitted to his organization.” The letters, however, do not demonstrate that the associations require outstanding achievements as a condition for membership, nor do they indicate that membership is judged by recognized national or international experts. Repeating the language of the statute or regulations does not satisfy the petitioner’s burden of proof. *Fedin Bros.*

¹ Although we discuss a sampling of letters, we have reviewed and considered each one.

Co., Ltd. v. Sava, 724 F. Supp. 1103, 1108 (E.D.N.Y. 1989), *aff'd*, 905 F. 2d 41 (2d. Cir. 1990); *Avyr Associates, Inc. v. Meissner*, No. 95 CIV. 10729, *1, *5 (S.D.N.Y. Apr. 18, 1997).

Further, the record contains copies of website screenshots reflecting the associations' membership requirements. Specifically, [REDACTED] states that "one must be a professional creative specialist whose main occupation is working in the media, including a freelancer." In addition, one "must have reached the age of eighteen, recognize the present Charter, have paid the entrance fee, and must have been personally involved in the work of [REDACTED]." As it relates to [REDACTED], membership is reserved to journalists "who have professionally worked in the media for at least 3 years as employees of the editorial staff, news agencies, TV and radio stations, etc., or who have worked as freelance journalists . . . or who have engaged in journalistic activities having been tasked by the editorial staff." Here, neither association's membership requirements are indicative of outstanding achievements consistent with this regulatory criterion.² In addition, the Petitioner did not establish that the relevant achievements are judged by recognized national or international experts. Accordingly, the Petitioner did not demonstrate that she satisfies this criterion.

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).

Evidence of published material in professional or major trade publications or in other major media publications about a petitioner should establish that the circulation is high compared to other circulation statistics and show who the intended audience of the publication is, as well as the title, date, and author of the material.³ Although the Petitioner provided documentation reflecting material about her, she did not demonstrate that her evidence meets every element of this criterion. Specifically, the Petitioner provided two screenshots of interviews with her that were posted on [REDACTED] Russian website, [REDACTED]. However, the evidence did not contain the required authors of the material. Moreover, while the Petitioner presented screenshots from Wikipedia regarding an overview of [REDACTED], she did not submit evidence showing that [REDACTED] is a major medium.

Further, the Petitioner submitted articles reflecting interviews with her that were published in the [REDACTED]. Besides not including the authors, the Petitioner did not establish that the newspapers are major media. While the Petitioner claims that the [REDACTED] "is the leading Russian language newspaper in the [REDACTED] area" and [REDACTED] "reaches over 200,000

² See USCIS Policy Memorandum PM-602-0005.1, *Evaluation of Evidence Submitted with Certain Form I-140 Petitions; Revisions to the Adjudicator's Field Manual (AFM) Chapter 22.2, AFM Update AD11-14 6* (Dec. 22, 2010), <https://www.uscis.gov/sites/default/files/ocomm/ilink/0-0-0-6423.html> (stating that relevant factors that may lead to a conclusion that membership was not based on outstanding achievements include years of experience in a particular field, payment of a subscription fee, or employment in certain occupations).

³ See USCIS Policy Memorandum PM-602-0005.1, *supra*, at 7.

Russian speaking people in [REDACTED]” she did not support her assertions with supporting documentation, nor did she show that such circulation would be consistent with “major media” status.

In addition, the Petitioner provided screenshots from [REDACTED] reflecting an interview with her. The Petitioner, however, did not include the author and date of the screenshot. Further, while the screenshot indicates that the project “is created to promote the development of cultural, academic, and business cooperation,” the Petitioner did not show that the website is considered a professional or major trade publication or other major medium.

The Petitioner also submitted screenshots of an interview of her from [REDACTED]. Again, the Petitioner did not include the required date and author of the material. Moreover, the Petitioner claims that [REDACTED] is an online newspaper with an audience of “approximately 12,500 readers per day.” However, the record reflects that the Petitioner previously submitted a screenshot from [REDACTED] showing that “[t]he audience of the web site is approximately 2,500 readers per day.” Notwithstanding this inconsistency, the Petitioner did not demonstrate that either readership statistic is indicative of a major medium.

Finally, the Petitioner claims that “[t]he record contains a transcript of the interview of the Petitioner taken by [REDACTED] TV show produced by [REDACTED].” Although the record contains an English translation, the Petitioner did not submit a transcript of the interview, and the translation does not include the author of the material. Moreover, while the Petitioner provided documentation regarding the newspaper [REDACTED], as well as supplementing evidence on appeal regarding [REDACTED] she did not show that the interview was printed in [REDACTED] or posted on [REDACTED]. In addition, the Petitioner did not offer evidence reflecting that the program [REDACTED] qualifies as a major medium. The Petitioner also references another article that was posted on [REDACTED] however the article is self-authored and was posted after she filed her petition. The Petitioner must establish that all eligibility requirements for the immigration benefit have been satisfied from the time of the filing. 8 C.F.R. § 103.2(b)(1). For these reasons, the Petitioner did not demonstrate that she meets this criterion.

Evidence of the alien's original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field. 8 C.F.R. § 204.5(h)(3)(v).

In order to satisfy the regulation at 8 C.F.R. § 204.5(h)(3)(v), a petitioner must establish not only that she has made original contributions but that they have been of major significance in the field. For instance, a petitioner may show that her contributions have been widely implemented throughout the field, have remarkably impacted or influenced the field, or have otherwise risen to a level of major significance in her overall field. The Petitioner argues that her recommendation letters meet this criterion. Specifically, the Petitioner references samples of letters where the authors discussed her coverage of ranging topics, such as criminal cases and emergency situations. For example, [REDACTED] discussed the Petitioner’s work on [REDACTED] where she covered the redistribution of the diamond market, and [REDACTED] indicated that she “reported the

kidnapping of a child from a city in Central Russia.” Even though the authors highlighted some of the Petitioner’s stories, they do not establish how her work is of major significance to the field of journalism. *See Visinscaia*, 4 F. Supp. 3d at 134-35 (upholding a finding that a ballroom dancer had not met this criterion because she did not corroborate her impact in the field as a whole).

Similarly, while the Petitioner submitted copies of her articles indicating the originality of her work, she did not demonstrate how her reporting and stories have impacted or influenced the field of journalism. Moreover, the Petitioner speculates on how her reporting “might” have helped police investigations. For example, the Petitioner claims that if she had not started her investigation, “he might have never been caught.” Besides the unsupported nature of her claims, this criterion requires the Petitioner to show that her original contributions have already been of major significance to the journalism field.

In addition, the Petitioner references her compiling and publishing in [REDACTED] of potentially dangerous residential and commercial buildings across Russia. She also submitted an article posted on [REDACTED] indicating that, since the publication of the list, “a lot of owners started to put their property into shape.” The Petitioner, however, did not demonstrate the impact of her reporting and publication on the journalism field.

The reference letters also praise the Petitioner for her skills and talents. For example, [REDACTED] claimed that the Petitioner possesses “outstanding skills and extraordinary talent.” Although the letters praise the Petitioner for her skills and work, they do not explain how she has made original contributions of major significance in the field. Having a diverse skill set is not a contribution of major significance in and of itself. Rather, the record must be supported by evidence that the Petitioner has used those unique skills to impact the field at a significant level.

The letters considered above primarily contain attestations of the Petitioner’s status in the field without providing specific examples of how her contributions rise to a level consistent with major significance. Letters that repeat the regulatory language but do not explain how an individual’s contributions have already influenced the field are insufficient to establish original contributions of major significance in the field. *Kazarian*, 580 F.3d at 1036, *aff’d in part* 596 F.3d at 1115, 1122. Moreover, USCIS need not accept primarily conclusory statements. *1756, Inc. v. The U.S. Att’y Gen.*, 745 F. Supp. 9, 15 (D.C. Dist. 1990). For these reasons, the Petitioner did not demonstrate that she meets this criterion.

Evidence of the alien’s authorship of scholarly articles in the field, in professional or major trade publications or other major media. 8 C.F.R. § 204.5(h)(3)(vi).

The Petitioner argues that her articles in newspapers, such as [REDACTED], meet this criterion. A scholarly article should be written for “learned” persons in the field. “Learned” is defined as having or demonstrating profound knowledge or scholarship. Learned persons include all

persons having profound knowledge of a field.⁴ Here, the Petitioner has authored journalistic articles rather than scholarly articles in the field of journalism. In addition, the Petitioner has not shown that her articles are written for “learned” persons, rather her journalistic articles are written for the general population.

Further, the Petitioner claims that her book, [REDACTED] satisfies this criterion. She references recommendation letters who indicate the “journalistic” nature of the book. For example, [REDACTED] stated that “[t]his book is a beautiful journalistic effort” and “[u]ndoubtedly, this book is journalism.” In the case here, the Petitioner has not established that her journalistic book qualifies as and has the characteristics of a scholarly article. Moreover, while the Petitioner indicates that the book is sold at bookstores and other websites, she has not documented that it qualifies as a professional or major trade publication or other major medium.

The Petitioner also argues that “these publications may not be the ‘scholarly articles’ as they would be in the case of a scientist for example, but nevertheless the petitioner’s articles and book were published in the major media and, as such, should satisfy this criterion.” The regulation at 8 C.F.R. § 204.5(h)(4) allows for the submission of comparable evidence if the listed criteria do not readily apply to her occupation.⁵ However, the Petitioner did not demonstrate that this criterion does not readily apply to journalists. The fact that the Petitioner did not author scholarly articles in professional or major trade publications or other major media is not evidence that a journalist could not do so. Moreover, she did not show how her articles and book are “truly comparable” to the scholarly articles criterion.⁶ Accordingly, the Petitioner did not establish that she meets this criterion, including through the submission of comparable evidence.

Evidence of the display of the alien’s work in the field at artistic exhibitions or showcases.
8 C.F.R. § 204.5(h)(3)(vii).

The Petitioner displayed her book through a presentation at the [REDACTED] Branch of the New York Public Library. Accordingly, the Petitioner satisfied this criterion.

Evidence that the alien has performed in a leading or critical role for organizations or establishments that have a distinguished reputation. 8 C.F.R. § 204.5(h)(3)(viii).

The Petitioner contends that her work as a journalist for [REDACTED] collaborating with the Russian Ministry of [REDACTED] and the Russian Ministry of [REDACTED], shows that she performed in a leading or critical role for each of these newspapers. If a leading role, then evidence must establish that a petitioner is or was a leader. A title, with appropriate matching duties, can help to establish if a role

⁴ See USCIS Policy Memorandum PM-602-0005.1, *supra*, at 9.

⁵ *Id.* at 12.

⁶ *Id.*

is or was, in fact, leading.⁷ If a critical role, the evidence must establish that a petitioner has contributed in a way that is of significant importance to the outcome of the organization or establishment's activities. It is not the title of a petitioner's role, but rather the performance in the role that determines whether the role is or was critical.⁸

On appeal, the Petitioner refers to [REDACTED] recommendation letter that discussed her investigating and reporting on stories, such as the deaths of a Russian journalist and a prominent American businessman. Here, the Petitioner did not establish that the letter shows that she performed in a leading role for any of the newspapers. The letter does not claim that she held a leadership position. In addition, the Petitioner did not submit, for example, organizational charts reflecting the hierarchy at any of the publications.

As it relates to a critical role, while [REDACTED] indicated that the Petitioner worked with the [REDACTED] ministries, including receiving awards from them, the letter does not demonstrate that she contributed to the success or standing of the newspapers. The Petitioner did not establish, for instance, that her reporting resulted in higher sales or that the newspapers garnered awards or furthered their reputations based on the Petitioner's work.

Finally, this criterion also requires that the organizations or establishments must be recognized as having a distinguished reputation, which is marked by eminence, distinction, or excellence.⁹ The Petitioner does not reference on appeal, nor does the record contain, evidence relating to the reputations of [REDACTED]. In regards to [REDACTED] the record contains Wikipedia screenshots showing that it is a Russian government-based newspaper. However, the record does not demonstrate that the publication enjoys a distinguished reputation. For these reasons, the Petitioner did not show that she meets this criterion.

III. CONCLUSION

The Petitioner has not submitted the required initial evidence of either a one-time achievement or documents that meet at least three of the ten criteria. As a result, we need not provide the type of final merits determination referenced in *Kazarian*, 596 F.3d at 1119-20. Nevertheless, we advise that we have reviewed the record in the aggregate, concluding that it does not support a finding that the Petitioner has established the level of expertise required for the classification sought. For the foregoing reasons, the Petitioner has not shown that she qualifies for classification as an individual of extraordinary ability.

⁷ See USCIS Policy Memorandum PM-602-0005.1, *supra*, at 10.

⁸ *Id.*

⁹ *Id.* at 12-13.

Matter of A-V-

ORDER: The appeal is dismissed.

Cite as *Matter of A-V-*, ID# 1088142 (AAO Mar. 27, 2018)