



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

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

MATTER OF N-A-R-V-

DATE: NOV. 19, 2018

APPEAL OF NEBRASKA SERVICE CENTER DECISION

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

The Petitioner, a visual artist and photographer, 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 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 not satisfied any of the ten initial evidentiary criteria, of which he must meet at least three.

On appeal, the Petitioner offers additional documentation, as well as previously submitted evidence, and a brief, contending that he meets at least three of the ten criteria.

Upon *de novo* review, we will dismiss 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). 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). The regulation at 8 C.F.R. § 204.5(h)(4) allows a petitioner to submit comparable material if he or she is able to demonstrate that the standards at 8 C.F.R. § 204.5(h)(3)(i)-(x) do not readily apply to the individual's occupation.

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

At initial filing, the Petitioner indicated that he was not currently employed.<sup>1</sup> Subsequently, he presented evidence showing employment on photographic projects in the [REDACTED] area. Because he has not indicated or established that he has received a major, internationally recognized award, he must satisfy at least three of the alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x). In denying the petition, the Director found that the Petitioner did not meet any of the initial evidentiary criteria.

On appeal, the Petitioner maintains that he fulfills four criteria. We have reviewed all of the evidence in the record and conclude that it does not support a finding that the Petitioner satisfies the 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 Petitioner contends that his receipt of the [REDACTED] “Photographer of the Year,” and [REDACTED] “Photographer of the Year” awards

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<sup>1</sup> See the Petitioner's Form G-325A, Biographic Information.

meet this criterion. In order to satisfy this criterion, a petitioner must demonstrate that his prizes or awards are nationally or internationally recognized for excellence in the field.

He presents three letters from representatives of each of the awarding entities. Specifically, the Petitioner submits a letter from [REDACTED] president of the [REDACTED] who stated that the award “is the most prominent and prestigious award in Venezuela” and is “the most highly-prized Venezuelan award regionally, nationally and internationally.” Moreover, he offers a letter from [REDACTED] president of [REDACTED] who claims that the awards “have been presented to the most outstanding, beloved and acclaimed figures of photography, culture and art of the past 20 years in Venezuela.” Further, he provides a letter from [REDACTED] president of [REDACTED] who indicates that “we have given awards to the most outstanding musical and entertainment artists at the national and international levels.”

Although the letters attest that their awards are national or international, the authors did not provide specific, detailed, and probative information explaining how their awards are considered by the visual artist or photography field as nationally or internationally recognized for excellence. Here, the authors praise their awards without showing the overall field’s recognition of them. The Petitioner did not establish, for example, the national or international significance of the awards or prizes by the field.<sup>2</sup>

For these reasons, the Petitioner did not demonstrate that he fulfills 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 provides evidence showing that he was a juror for a photographic and audiovisual contest in 2015. Accordingly, the Petitioner demonstrated that he satisfies 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).*

The Petitioner argues that he “restor[ed] the archive of the photographic oeuvre of [REDACTED], a Venezuelan photographer who lived from 1857 until 1920.” Moreover, he maintains that he “work[ed] on the traveling exhibition, [REDACTED] in which [he] acted as the creator of a photographic record of the exhibition.” In order to satisfy the regulation at 8 C.F.R. § 204.5(h)(3)(v), a petitioner must establish that not only has he made original contributions but that they have been of major significance in the field. For example, a petitioner may show that the

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<sup>2</sup> 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/policymanual/HTML/PolicyManual.html>.

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.

Regarding his archival work of [REDACTED] the Petitioner presents a letter from [REDACTED] president of [REDACTED] who described the Petitioner's efforts in "rescuing," "restoring," and "transferring" [REDACTED] artistic works to the [REDACTED] of Venezuela. [REDACTED] also indicated that the exhibition "had an impact of such magnitude that a catalog was prepared with these unpublished photographs of this unique Venezuelan artist who is part of the country's photographic history." However, [REDACTED] did not demonstrate how the Petitioner's work with [REDACTED] photographs significantly impacted or influenced the field. The Petitioner did not show, for example, that the overall field considers the Petitioner's work to be of major significance.<sup>3</sup> Moreover, [REDACTED] did not elaborate on the importance of the catalog and how the field considers it to be majorly significant.

Similarly, as it relates to his work on [REDACTED] the Petitioner offers another letter from [REDACTED] who stated that the Petitioner served as an independent principal photographer and as the media coordinator for the exhibition. Moreover, [REDACTED] indicated that the Petitioner "did distinguished work for us" and "stood out for his service as a photographic guide for the distinguished artist [REDACTED] while he was creating photographic images during his stay in [REDACTED]. Again, [REDACTED] did not provide specific, detailed information explaining how the field considers the Petitioner's work to be of major significance. For instance, [REDACTED] did not establish that the overall field, beyond [REDACTED] views the Petitioner's work on the exhibition as an original contribution of major significance.

In addition, the Petitioner offers a letter from [REDACTED] director of the department of photography at [REDACTED] who made general assertions regarding the Petitioner's work without specifically identifying original contributions of major significance in the field. For example, [REDACTED] claimed that the Petitioner's "journalistic and artistic language contributed greatly to providing information, and to giving a cultural context, for the imagery used." While he praised the Petitioner's work, [REDACTED] did not identify original contributions or show how the field has been greatly impacted or influenced by the work.

The letters considered above primarily contains attestations of the Petitioner's status in the field without providing specific examples of contributions that rise to a level consistent with major significance. Letters that specifically articulate how a petitioner's contributions are of major significance to the field and its impact on subsequent work add value.<sup>4</sup> Letters that lack specifics and use hyperbolic language do not add value, and are not considered to be probative evidence that

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<sup>3</sup> See USCIS Policy Memorandum PM 602-0005.1, *supra*, at 8-9; see also *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).

<sup>4</sup> See USCIS Policy Memorandum PM 602-0005.1, *supra*, at 8-9.

may form the basis for meeting this criterion.<sup>5</sup> 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).

Accordingly, the Petitioner did not establish that he meets this criterion.

*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 submits evidence reflecting that he displayed his work at three artistic exhibitions in Venezuela. Accordingly, the Petitioner established that he fulfills 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 acclaim and recognition required for the classification sought.

The Petitioner seeks a highly restrictive visa classification, intended for individuals already at the top of their respective fields, rather than for individuals progressing toward the top. USCIS has long held that even athletes performing at the major league level do not automatically meet the “extraordinary ability” standard. *Matter of Price*, 20 I&N Dec. 953, 954 (Assoc. Comm’r. 1994). Here, the Petitioner has not shown that the significance of his artistic accomplishments is indicative of the required sustained national or international acclaim or that it is consistent with a “career of acclaimed work in the field” as contemplated by Congress. H.R. Rep. No. 101-723, 59 (Sept. 19, 1990); *see also* section 203(b)(1)(A) of the Act. Moreover, the record does not otherwise demonstrate that the Petitioner has garnered national or international acclaim in the field, and he is one of the small percentage who has risen to the very top of the field of endeavor. *See* section 203(b)(1)(A) of the Act and 8 C.F.R. § 204.5(h)(2).

For the foregoing reasons, the Petitioner has not shown that he qualifies for classification as an individual of extraordinary ability.

**ORDER:** The appeal is dismissed.

Cite as *Matter of N-A-R-V-*, ID# 1734779 (AAO Nov. 19, 2018)

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<sup>5</sup> *Id.* at 9. *See also Kazarian*, 580 F.3d at 1036, *aff’d in part* 596 F.3d at 1115 (holding that 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).