



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

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

In Re: 1852444

Date: DEC. 5, 2019

Appeal of Texas Service Center Decision

Form I-140, Immigrant Petition for Alien Worker (Extraordinary Ability)

The Petitioner, a filmmaker, 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 Texas Service Center denied the petition, concluding that although the Petitioner satisfied three of the ten initial evidentiary criteria, he did not establish sustained national or international acclaim and demonstrate that he is among the small percentage at the very top of his field of endeavor.

On appeal, the Petitioner asserts that he meets at least six of the ten evidentiary criteria and is qualified as an individual of extraordinary ability.

In these proceedings, it is the Petitioner's burden to establish eligibility for the requested benefit. *See* Section 291 of the Act, 8 U.S.C. § 1361. Upon *de novo* review, we will dismiss the appeal.

I. LAW

Section 203(b)(1) 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 a multi-part analysis. First, a petitioner can demonstrate sustained acclaim and the recognition of his or her achievements in the field through 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 sufficient qualifying 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 is a film director and screenwriter whose credits include theatrical feature films and documentary projects released in his native country of Turkey. The record reflects that he has also worked as a lecturer and writer on the topics of screenwriting and filmmaking.

A. Evidentiary Criteria

Because the Petitioner 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). The Director found that the Petitioner met the following criteria: awards, judging, and display of his work at artistic exhibitions or showcases at 8 C.F.R. § 204.5(h)(3)(i), (iv), and (vii), respectively. The record reflects that the Petitioner’s film, [REDACTED] won two Grand Jury [REDACTED] Awards at the WorldFest [REDACTED] Film Festival, and that it was screened at several additional festivals. Accordingly, we agree that the submitted evidence establishes that the Petitioner meets the awards and display criteria. In addition, the Petitioner provided evidence that he judged the work of others in his field as a member of juries for the [REDACTED] International Film Festival as well as other short film and screenwriting competitions.

Therefore, the Petitioner has established that he fulfills at least three regulatory criteria, and we will evaluate the totality of the evidence in the context of the final merits determination below.

B. Final Merits Determination

As detailed above, the Petitioner has submitted the requisite initial evidence and established that he meets at least three of the ten evidentiary criteria listed at 8 C.F.R. § 204.5(h)(3)(i)-(x). We will therefore evaluate whether he has demonstrated, by a preponderance of the evidence, that he has sustained national or international acclaim and is one of the small percentage of individuals at the very top of his field. In a final merits determination, we analyze the Petitioner's accomplishments and weigh the totality of the evidence to determine whether it is sufficient to demonstrate that he has extraordinary ability.

As a preliminary matter, however, we note that counsel appears to object to the Director's final merits analysis, stating that the Petitioner was held to "a super standard." Specifically, counsel cites to *Muni v. INS*, 891 F. Supp. 440, 445 (N.D. Ill., May 23, 1995), arguing that "a petitioner is expected to show international recognition as outstanding by producing evidence from at least 3 of the 10 criteria in the Regulations. It is not necessary to show that each criterion was met as a result of extraordinary ability." Counsel further argues "[i]t is the reverse that is true – by satisfying at least three criteria through meeting the plain language of the regulations, an alien is deemed to have international recognition." Notwithstanding counsel's assertions, *Muni* specifically states that "the satisfaction of the three-category production requirement does not mandate a finding that the petitioner has sustained national or international acclaim and recognition in his field." *Id.* at 445-46.

As discussed above, USCIS performs 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 *Kazarian* 596 F.3d 1115 (9th Cir. 2010); see also 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* (Dec. 22, 2010). Here, the Director's decision reflects that he evaluated the evidence to determine if it met the plain language of the evidentiary criteria as the first part of a two-step analysis. After determining that the Petitioner had met three criteria, the Director considered the quantity and quality of evidence in order to determine whether the evidence was consistent with a finding that the Petitioner demonstrated that he has sustained national or international acclaim. We do note, however, that in conducting the final merits determination, the Director did not consider the totality of the evidence, but rather limited his final merits discussion to evidence submitted to meet the awards, judging, and display criteria. We will consider the totality of the evidence in our discussion below.

The Petitioner is a film director and screenwriter who has also worked as an assistant director, camera operator, film magazine editor, and lecturer. The record as a whole reflects that he has become a respected figure in the Turkish film and television industry, but does not demonstrate that his 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).

Based on the submitted evidence, the Petitioner is best known for his first feature film, [REDACTED], which he completed in 2007. The Petitioner received two received Special Jury [REDACTED] Awards, in the "First Feature" and "Theatrical Feature" categories, at the 2009 Worldfest [REDACTED] International Film Festival for this film. Further, the record reflects that the Petitioner's participation in Worldfest [REDACTED] and his receipt of the [REDACTED] Awards were covered by Turkish media

outlets, including the Turkish CNN website (CNN Turk). On appeal, the Petitioner emphasizes that Worldfest “is the oldest independent film and video festival in the world and the third most competitive international film festival in North America.”¹ Worldfest’s publicity materials reflect that many internationally recognized film directors received their first awards at the festival very early in their careers.² This fact does not establish, however, that winning a [redacted] Award results in sustained national or international acclaim for the award recipient. The other [redacted] Award-winning film directors referenced by the Petitioner have many film credits and became internationally recognized in the field based on other projects that came later in their careers. The Petitioner received his awards for [redacted] in 2009, but has not directed another feature film or demonstrated that he received any additional nominations or awards for his film and television projects in subsequent years, which would tend to support a finding that he has achieved sustained national or international acclaim in the field.

The record also reflects that [redacted] was screened at the [redacted] Film Festival, the [redacted] Turkish Film Festival, the [redacted] Film Festival, [redacted] Turkish Film Days, and the [redacted] Middle East Film Festival. As it is expected that film directors would exhibit their artistic work in front of audiences, we will evaluate the extent to which the display of the Petitioner’s work is reflective of acclaim consistent with this classification. While this evidence demonstrates that the film received additional recognition in the independent film field, the record contains little information regarding these festivals. Further, the Petitioner has not established that the selection of his film for these festivals resulted in significant media attention or otherwise resulted in national or international recognition. For example, the record reflects that the *Tallahassee Democrat* published a 2008 article titled “[redacted] Rolls Cinema-Powered trip through Middle East,” which mentioned the Beneficiary’s visit to [redacted] to discuss and present [redacted] at its Middle East Film Festival. In addition, the Petitioner provided a [redacted] 2008 *Austin Chronicle* article titled “[redacted] Film Festival Announces Full Lineup,” which lists [redacted] among the films being screen at the festival that year. The Petitioner did not provide evidence that he received any major media coverage for his festival appearances in the United States or elsewhere or provide other evidence that his U.S. film festival screenings reflect the level of national or international acclaim required for this classification.

The record reflects that the Petitioner received considerable print media coverage in Turkey surrounding the release of [redacted]. The Director determined that the evidence submitted under the published materials criterion at 8 C.F.R. § 204.5(h)(3)(iii), did not meet all elements of the evidentiary criterion either due to incomplete translations, incomplete information regarding the author, title, and date of the material, and/or a lack of evidence that the articles appeared in professional or major trade publications or other major media. On appeal, counsel reiterates that the Petitioner provided published materials “from major newspapers and magazines” but we agree with the Director that the Petitioner did not provide independent evidence showing that the submitted newspaper and

¹ Worldfest’s own publicity materials indicate that, when founded in 1961, it “became the third competitive international film festival in North America.” This evidence does not support various statements in the record which refer to Worldfest as “the third most competitive” film festival in North America.

² Specifically, Worldfest’s website provides a lengthy list of directors “discovered” at the festival that includes Steven Spielberg, George Lucas, David Lynch, Oliver Stone, the Coen Brothers, Ang Lee, among others and states that there are “hundreds more.”

magazine articles appeared in major Turkish publications with high circulation statistics.³ Therefore, while the Petitioner provided evidence that articles about him and [redacted] appeared in Turkish publications such as *Aksiyon*, *Haftalik*, *Sinematurk*, *Sultanahmet Gazetesi*, *Turkish Daily News*, and what appears to be the Turkish version of *Star* magazine, we cannot determine whether this evidence supports the Petitioner's claim that he received major, national media attention for his work. The Petitioner also submitted a screenshot showing that he was interviewed on Fox Channel Turkey and NTV in connection with [redacted] but he did not provide the dates of broadcast, transcripts of his interviews, or evidence that these were national broadcasts. The record also contains evidence that, in addition to the film's screenings in various festivals, it received a broader theatrical release in Turkey. However, the Petitioner did not submit sufficient objective evidence to establish that the film was a commercial success based on its box office receipts or video sales. Therefore, while the evidence shows that [redacted] enjoyed critical acclaim at Worldfest, was screened at several other festivals, and received media attention, it does not demonstrate that this acclaim was accompanied by commercial success despite its broader release. More importantly, as will be discussed below, the Petitioner has not established that his subsequent projects have garnered the same level of acclaim or elevated him to the very top of his field.

The Petitioner also provided evidence that he received media coverage related to [redacted] a six-part documentary series that aired on the Turkish television channel TRT in 2014. Although counsel describes TRT as "the second most watched channel in Turkey," this claim that is not adequately supported by independent evidence.⁴ The Petitioner provided several print articles regarding the premiere of [redacted] and evidence that part of the series was screened at a premiere event at [redacted] University. Additionally, he provided: screenshots from the NTV television program *Hafta Sonu* which appears to depict an interview with the Petitioner and coverage of [redacted] premiere; screenshots from TRT Turk which were captioned [redacted] a brief article about the premiere that appeared on the TRT Avaz website; and screenshots that appear to show the Petitioner being interviewed in-studio about [redacted] for the channel TRT Haber. As with other evidence submitted under the published materials criterion, the Petitioner did not provide transcripts of television interviews and appearances or evidence that the submitted print articles were published in major media. While [redacted] appears to have been a nationally televised series whose premiere was covered by Turkish media outlets, the record does not contain evidence that it was nominated for or received any awards or evidence that it drew a large number of viewers or critical acclaim.

The record contains comparatively little evidence regarding the Petitioner's other film projects, which include the documentaries [redacted] [redacted] [redacted] [redacted] and [redacted] [redacted]. In addition, some of the submitted testimonial letters, discussed further below, reference the Petitioner's earlier work for the television series [redacted] and [redacted] [redacted] on which he worked as an assistant director. However, the record lacks sufficient independent evidence of the recognition he received for these projects. With respect to the documentaries, it is

³ See USCIS Policy Memorandum PM-602-0005.1, supra, at 7 (stating that "evidence of published material in professional or major trade publications or in other major media publications about the alien should establish that the circulation (on-line or in print) is high compared to other circulation statistics and show who the intended audience of the publication is).

⁴ Based on the information from TRT's website, there appear to be 14 different TRT channels, some of which are regional, rather than national or international. It is unclear which TRT channel(s) aired the Petitioner's documentary series.

unclear when, where or in what capacity these projects were released and how they were received by audiences and critics, as many of them were documented in the record solely through submission of captioned screenshots. The record reflects that an article about the Petitioner and his film [redacted] appeared in the Turkish publication *Aksiyon* in 2006, but he did not provide evidence that this publication is considered major media in Turkey or otherwise provide sufficient evidence to establish that this film received national or international attention.

Overall, during his 20-year career in his field, the Petitioner has established that he directed one award-winning film that garnered him national attention in Turkey when it was first released and when screened at international festivals in 2008 and 2009. His next noted project, [redacted] was released in 2014, and also garnered some media coverage in Turkey. While both projects are noteworthy accomplishments for the Petitioner as a film director, the evidence does not establish that they are reflective of a “career of acclaimed work” or that receiving the documented level of recognition for two projects during a 20 year career demonstrates a level of success consistent with being among “that small percentage who [has] risen to the very top of the field of endeavor.” 8 C.F.R. § 204.5(h)(2).

The Petitioner emphasizes that he does not work solely as a film maker, but is also a writer and lecturer on the subjects of film making and screenwriting. Many of the submitted articles written by him about screenwriting and filmmaking appear to have been published on the his own website, but the record does not contain evidence showing that his website is widely viewed or read. The Petitioner also provided evidence that he contributed to a book titled [redacted] about Turkish director [redacted], but he submitted only a brief excerpt from his chapter. An article about the book indicates that it consists of interviews with [redacted] and his family and friends. However, it is unclear whether being selected for an interview about his friend and former colleague is indicative of his national acclaim for his work in the field.

The record further reflects that the Petitioner authored articles or reviews in the Turkish publications *Analysis*, *Bilem ve Gelecek*, *Cafe-Sanat*, *Hayal Perdesi*, and *Film Arasi*, a film magazine that he co-founded. As acknowledged by counsel, any published articles must be evaluated so that we can determine whether they are indicative of the Petitioner being one of that small percentage who have risen to the very top of his field and enjoying sustained national acclaim. Here, the Petitioner did not provide sufficient information regarding these publications, such as their circulation statistics and targeted audiences, to support such a finding. On appeal, counsel maintains that the submitted articles are “extraordinary” but does not offer further explanation. While the evidence supports the Petitioner’s expertise in the filmmaking and screenwriting field, we cannot determine that his publications support a finding that he enjoys sustained national or international acclaim that places him at the small percentage at the very top of his field.

The Petitioner also submitted evidence related to his work as a lecturer and asserts that it supports a finding that he has made original scholarly or artistic contributions in his field, consistent with the evidentiary criterion at 8 C.F.R. § 204.5(h)(3)(v). The Petitioner listed and provided evidence of 18 lectures, seminars and classes in which he served as an instructor between 2009 and 2016 on topics such as the Turkish filmmaking business, screenwriting, and film analysis. However, similar to the submitted evidence of his published articles, the Petitioner did not provide sufficient information regarding his activities as a lecturer to establish that this evidence is indicative of his stature at the top

of his field or his sustained national acclaim. While the Petitioner provided copies of newspaper articles that announced workshops and seminars in which he participated as a lecturer, the record does not contain information regarding the publications in which they appeared or otherwise support a finding that he received national attention based on his experience as an instructor in the field. Further, the fact that he has published articles and delivered seminars and lectures does not lead to a conclusion that he made original contributions of major significance in the field based on these activities.

The Petitioner has also submitted testimonial letters that summarize and discuss the Petitioner's contributions in the field as an author, lecturer, and film maker. With regard to his published materials, he provided a letter from [redacted] of [redacted] Films, who stated that he relied on the Petitioner's "online posts about World Cinema" to use in his own teaching activities. Similarly, the Petitioner provided a letter from Turkish actor [redacted] who states that he has attended some of the Petitioner's seminars and lectures in [redacted]. He describes the Petitioner's topics as "unique, insightful and inspiring" and notes that the Petitioner "has not only changed my interpretation of the screenplay characters but also my acting performance and the way I give life to characters that I am portraying." While these letters suggest that the Petitioner's essays and lectures have directly impacted [redacted] and [redacted] in their approaches to teaching and acting, their statements are not indicative of original contributions in the field with a wider impact consistent with "major significance," nor do their statements support a finding that the Petitioner has received national or international acclaim as a result of his writing and lecturing activities.

The Petitioner also provided letters that discuss his contributions as a filmmaker. [redacted] a filmmaker from New Zealand, discusses [redacted] noting that the Petitioner used a "novel initiative" to write the film's screenplay. Specifically, she states that [i]t was novel in the sense that it was one of first examples of online story development collaborating with its public audience on the internet" and was "way before the time of kickstarter or any other collaborative fundraising or collaborative creative platforms." [redacted] also describes [redacted] as "one of the first Turkish films in the mystery/thriller genre" and states her belief that it is "still a good subject of film studies itself." Finally she commented on [redacted] noting that the series "sought the forgotten and unheard of voices of African people" and noted that the Petitioner's "effort to depict all colors of the planet and his contribution build [sic] a better society was outstanding." While [redacted] discusses original or novel aspects of the Petitioner's work, she has not established that either of his films was particularly influential in the Turkish or international film industry such that it had they had an impact of major significance⁵ in the overall field that contributed to his national or international acclaim.

The Petitioner also provided a letter from [redacted] an executive editor with [redacted] [redacted] who discusses the Petitioner's early career, noting that he got his start working on non-fiction shows as a member of [redacted]'s team, and later brought the project [redacted] to the TV channel's board of directors, noting that the show became "one of the most popular and most influential TV shows in 2000s," and influenced the major television networks for years as they tried to replicate the show. A letter from [redacted] of [redacted] also mentions that

⁵ 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 the original contributions criterion because she did not corroborate her impact in the field as a whole).

the Petitioner was the screenwriter and director of [redacted] noting the popularity of the show and its “significant impact on its audience on a national scale in Turkey.” However, as noted, the record contains little independent evidence of the Petitioner’s work on [redacted] or the attention he received for this work, to corroborate its claimed impact and influence on Turkish television.

The Petitioner also submitted a letter from [redacted] a writer and film critic, who describes the Petitioner’s work as “extraordinary and exceptional” and states that he is “an outstanding artist” who has “many followers in Turkey in artistic sense.” [redacted] further notes that the Petitioner is “very well-known, extraordinary and one of the most impactful film directors.” However, he does not offer specific examples of the Petitioner’s impact on the field or discuss in any detail how he has influenced other artists. Finally, on appeal, the Petitioner provides a new letter from [redacted] [redacted] at University of [redacted] who summarizes the evidence in the Petitioner’s file and concludes that “he has earned a very distinguished level of recognition and admiration among his peers and other professionals.”

In evaluating the Petitioner’s evidence, we take into account the probative analysis that experts may provide in opinion letters regarding the significance of an individual’s contributions of major significance. Letters that specifically articulate how a petitioner’s contributions are of major significance in the field and its impact on subsequent work add value, while letters that lack specifics and simply use hyperbolic language do not.⁶ While the referenced letters praise the Petitioner’s talents, accomplishments, and broad experience, they are not sufficiently detailed to support a conclusion that he has made impactful or influential contributions to his field reflecting a “career of acclaimed work in the field” garnering the required sustained national or international acclaim. See H.R. Rep. No. at 59 and section 203(b)(1)(A) of the Act.

Regarding the Beneficiary’s experiences judging the work of others, an evaluation of this practice is acceptable under *Kazarian*, 596 F. 3d at 1121-11, to determine if such evidence is indicative of the extraordinary ability required for this highly restrictive classification. The record reflects that the Beneficiary was responsible for judging entries at various film festivals and screenwriting competitions in Turkey between 2013 and 2016, including the 4th and 5th [redacted] International Film Festival, the [redacted] Documentary and Animation Shorts Competition, [redacted] University’s 6th [redacted] [redacted] Short Film Competition, and the [redacted] Screenplay Competition, among others. The Petitioner provided screenshots of articles demonstrating the [redacted] and [redacted] Screenplay award winners received media coverage on the website Ihlas Haber Ajansi (lha.com.tr). The Petitioner also submitted screenshots showing that he presented the Best Short Documentary award to the winner at the [redacted] competition, which was televised on [redacted] TV.” However, the documented amount of coverage does not establish that the Petitioner garnered national recognition in the field based on his work as a judge in these competitions. The record contains little background information regarding the nature or scope of the competitions he judged, or the level of recognition associated with being selected as a judge. While we note that at least one of these competitions had a televised awards ceremony, the record does not contain evidence regarding the station that broadcast the awards and its intended audience. As a result, we cannot determine that the Petitioner’s judging activities reflect that he is one of that small percentage who have risen to the very top of the field of endeavor.

⁶ See USCIS Policy Memorandum PM-602-0005.1, *supra*, at 9.

Finally, we acknowledge that the Petitioner submitted evidence that he is a member and “advisory committee member” of SINEBIR (Turkey’s “Film Authors’ Collecting Society”), a member of the advisory board of the Center for Turkish Cinema Studies (TSA), and a member of the International Competitiveness Research Group (URAK), an organization that does not appear to be related to the film industry. While his membership in Turkish film industry associations is noted, the record does not contain sufficient supporting evidence regarding these groups or their membership requirements and selection procedures to establish that such memberships, even at the advisory board or committee level, are indicative of the Petitioner’s national acclaim as a film maker.

Considered in its totality, the evidence in the record demonstrates that the Beneficiary is a talented film director, screenwriter, author and lecturer who is well-respected within Turkey based on his broad experience in the film and television industries. While his experience is wide-ranging and includes several notable accomplishments, the Petitioner has not shown that his artistic achievements at this point of his career, in any one area or as a whole, are indicative of one who has risen to the very top of his field of endeavor with sustained national or international acclaim, as required. 8 C.F.R. § 204.5(h)(2)-(3).

The Petitioner seeks a highly restrictive visa classification, intended for individuals already at the top of their respective fields, rather than those progressing toward the top. USCIS has long held that even athletes performing at the major league level do not automatically meet the statutory standards for classification as an individual of “extraordinary ability.” *Matter of Price*, 20 I&N Dec. 953, 954 (Assoc. Comm’r 1994). While the Petitioner need not establish that there is no one more accomplished to qualify for the classification sought, we find the record insufficient to demonstrate that he has sustained national or international acclaim and is among the small percentage at the top of his field. *See* section 203(b)(1)(A)(i) of the Act; 8 C.F.R. § 204.5(h)(2).

III. CONCLUSION

For the reasons discussed above, the Petitioner has not demonstrated his eligibility as an individual of extraordinary ability. The appeal will be dismissed for the above stated reasons, with each considered as an independent and alternate basis for the decision.

ORDER: The appeal is dismissed.