



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

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

MATTER OF G-H-C-

DATE: JULY 2, 2019

APPEAL OF NEBRASKA SERVICE CENTER DECISION

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

The Petitioner, a violinist, 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 Form I-140, Immigrant Petition for Alien Worker, concluding that the Petitioner had shown that she met only one of the ten initial evidentiary criteria, of which she must meet at least three.

On appeal, the Petitioner submits additional evidence and contends that she qualifies as an individual of extraordinary ability.

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

In denying the petition, the Director found that the Petitioner met the criterion for participation as a judge of the work of others under 8 C.F.R. § 204.5(h)(3)(iv) but that she did not meet the criteria for awards, published material, and leading or critical role under 8 C.F.R. § 204.5(h)(3)(i), (iii), and (viii), respectively.

On appeal, the Petitioner asserts that she meets at least three criteria and that she qualifies as an individual of extraordinary ability. We have reviewed all of the evidence in the record of proceedings, and we find that the Petitioner has sufficiently demonstrated that she meets the criteria for awards, published material, judging, and leading or critical role under 8 C.F.R. § 204.5(h)(3)(i), (iii), (iv), and (viii). In addition, we conclude that the Petitioner has established that she has sustained national or international acclaim and that her achievements have been recognized in the field of expertise, indicating that she is one of that small percentage who has risen to the very top of the field of endeavor under 8 C.F.R. § 204.5(h)(2)-(3).¹

¹ 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 13 (Dec. 22, 2010), <https://www.uscis.gov/sites/default/files/USCIS/Laws/Memoranda/i-140-evidence-pm-6002-005-1.pdf>.

A. Evidentiary Criteria

Documentation of the individual'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 held that the Petitioner had not provided evidence of national or international media coverage through major trade publications or other major media to establish that the awards she received were nationally or internationally recognized. Here, we clarify that requiring such a level of media coverage is beyond the requirements of the regulation at 8 C.F.R. § 204.5(h)(3)(i), which requires that the prizes or awards are given for excellence in the field and that they are nationally or internationally recognized. While media coverage is one type of evidence that may establish whether the prizes or awards are nationally or internationally recognized, this is not a specific requirement of the regulation and exceeds the scope of this criterion.²

The record reflects that the Petitioner received first place for violin at the 2012 [redacted] International Competition in [redacted]. The record contains an article published in *Asia Economic Daily* that discusses the Petitioner's first place award at this competition, stating that it "was first held in 1991 to commemorate the Austrian 'master of violin violinist [redacted] a violin and viola concert and competition.'" The Petitioner has submitted documentation from the website for the World Federation of International Music Competitions which provides the details of the competition. The record also contains evidence that establishes the prominence of the jurors in the field.

In addition, the record demonstrates that the Petitioner won second place in the 2010 [redacted] International Violin Competition in [redacted] Italy. An article from www.teatro.it describes this as a prestigious competition judged by internationally renowned violinists, indicating that the 2010 competition included 64 violinists from 25 countries. Accordingly, based on the international structure of these competitions, the distinguished judges involved, and the number of competitors from around the world, the record reflects that the Petitioner's prizes from these competitions represent nationally or internationally recognized awards for excellence in the field.

Published material about the individual 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 Director held that the Petitioner had not established that she met this criterion, noting that the articles in the record merely announced her winning competitions and the evidence submitted does not establish the publications as major media. Here, we note that the record contains an article published in *Asia Economic Daily* about the Petitioner that discusses her background in the field and the piece she played in receiving the first place award at the [redacted] International Competition. This article also discusses the awards she received at other international music competitions.

² The Director noted that the translation certifications that the Petitioner initially submitted were not certified as "complete" under 8 C.F.R. § 103.2(b)(3) and then in response to his request for evidence that the certificates of translation do not identify the original document. Here, we find that the translations of the documents discussed in this decision comply with this regulation.

Accordingly, this demonstrates that the article is about her, relating to her work in the field. The record contains circulation details of this publication and its ranking among websites in South Korea, indicating, together with the evidence of its viewership, that it constitutes major media. Therefore, the Petitioner has established that she meets the requirements of this criterion.

Evidence of the individual's participation, either individually or on a panel, as a judge of the work of others in the same or an allied field of specialization for which classification is sought. 8 C.F.R. § 204.5(h)(3)(iv).

The Director held that the Petitioner met this criterion. We agree. The record reflects that the Petitioner served as a judge at the annual [redacted] Concerto Competition, evaluating string students. Therefore, she has sufficiently established that she meets 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).

For a leading role, the evidence must establish that the petitioner is or was a leader.³ If a critical role, the evidence must establish that the petitioner has contributed in a way that is of significant importance to the outcome of the organization or establishment's activities. A supporting role may be considered "critical" if the petitioner's performance in the role is or was important in that way. It is not the title of the petitioner's role, but rather his or her performance in the role that determines whether the role is or was critical.⁴

The record contains a letter from [redacted], the director of the [redacted] Symphony Orchestra, who states that "[the Petitioner] was invited as a soloist for several concerts including the joint concert with [redacted] Symphony Orchestra and the [redacted] National Symphony Orchestra in [redacted]" noting that her performance "was essential and critical to the success of the historic performance." He states that "[s]he was indeed the 'star' of the show, and the advertisements for the concert had her picture featured prominently on the front of the programs." He further indicates that "[e]very performance she did with [the orchestra] was highly acclaimed from audiences and critics both in [South] Korea and China." [redacted] also discusses the reputation of the [redacted] Symphony Orchestra, stating that it is a renowned orchestra in South Korea that performs over 100 concerts each year and that it "has recorded albums that have been nominated for the Grammy awards" In addition, the record contains an article published in *Roma Today*, discussing the orchestra's tour in Italy, indicating that the [redacted] Symphony Orchestra has been "the undisputed star of the South Korean music scene" for sixty years. This evidence establishes the distinguished reputation of the [redacted] Symphony Orchestra. Accordingly, the Petitioner's role in the performances noted above and the manner in which she was

³ 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 10 (Dec. 22, 2010), <https://www.uscis.gov/sites/default/files/USCIS/Laws/Memoranda/i-140-evidence-pm-6002-005-1.pdf>.

⁴ *Id.*

featured as a soloist in the joint concert in [redacted] demonstrates that she has performed a leading or critical role for an organization with a distinguished reputation.

In addition, the record contains a letter from [redacted], the former conductor and director of the [redacted] Philharmonic Orchestra, attesting to the Petitioner's performances with the orchestra. He states that she performed as a soloist with the orchestra in 2004 and as a concertmaster for the orchestra's tour in 2005 where "she led the orchestra successfully performing multi-city tours in Germany and the United States including [redacted] University and [redacted] Hall." He adds that the Petitioner performed as a soloist with the orchestra at the annual [redacted] Festival in South Korea in 2012. The record reflects that the [redacted] Philharmonic Orchestra is one of the leading orchestras in South Korea with its nationally recognized music festival and that the Petitioner's role as a soloist and concertmaster indicates that she performed a leading or critical role for an organization with a distinguished reputation. Therefore, with the evidence discussed above, the Petitioner has established that she meets this criterion.

B. Final Merits Determination

The Petitioner has submitted the requisite initial evidence, having provided documentation that she meets at least three of the ten criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x). In a final merits determination, we examine and weigh the totality of the evidence to determine whether the Petitioner 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. Here, for the reasons discussed below the Petitioner has established that she meets this standard.

The record reflects that the Petitioner began playing the violin at age four, and at age ten she began her performing career with the [redacted] Symphony Orchestra. The Petitioner has submitted evidence demonstrating that she has performed as a soloist with the [redacted] Philharmonic Orchestra, the [redacted] Symphony Orchestra, the [redacted] Chamber Orchestra, and the [redacted] Philharmonic Orchestra, among others.

The record reflects that the Petitioner received second place in the 2006 [redacted] International Violin Competition in [redacted] Germany and first place for violin in the 2009 [redacted] International Competition in [redacted]. As noted above, the record indicates that the Petitioner won second place in the 2010 [redacted] International Violin Competition in [redacted] Italy. An article from www.teatro.it describes the [redacted] competition as a prestigious competition judged by internationally renowned violinists. The Petitioner also won first place at the 2012 [redacted] International Competition in [redacted]. The record contains an article published in *Asia Economic Daily* that discusses her award and the prominence of this competition. Accordingly, these awards are an indication of the Petitioner's national or international acclaim in 2006, 2009, 2010, and 2012.

The letter discussed above from [redacted], the former conductor of the [redacted] Philharmonic Orchestra, further explains the Petitioner's role with the orchestra and his involvement in selecting and directing her. He praises her performances as a soloist with the orchestra in 2004 and as a concertmaster for the orchestra's international tour in 2005. In discussing her role as a soloist with

the orchestra at the annual [] Festival in South Korea in 2012, he states that “[h]er performance brought standing ovations from the audience and was most definitely a highlight of [his] career.” This demonstrates that the Petitioner’s role with the [] Philharmonic Orchestra is indicative of her national or international acclaim in 2004, 2005, and 2012.

Similarly, [] the music director of the [] Chamber Orchestra, states in his letter that the Petitioner performed as a soloist for the orchestra in several prestigious national and international concerts from 2011 to 2013, specifically noting performances in a concert tour to China in 2012 and as a soloist at the 2013 [] Concert in which she performed with several other renowned musicians. As discussed above, the record reflects that the Petitioner also played a prominent role as a soloist for the [] Symphony Orchestra in China and South Korea in 2012 and 2013. The Petitioner’s roles with these orchestras further establishes her recognition in the field of expertise and her acclaim during these years.

In a letter from Grammy award winning violinist [], she states that the Petitioner performed with her in [] at a benefit for the United Nations in 2015 and as part of a tour through the United States and to Brazil from 2015 to 2017 and that she will continue to perform as part of the national and international programs [] has founded, attesting to her abilities as a musician. This reflects, with the evidence discussed above, that the Petitioner has sustained national or international acclaim and that her work has been recognized in the field, indicating that she has risen to the very top of the field.

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 also demonstrated sustained national and international acclaim and that her achievements have been recognized through extensive documentation. She therefore qualifies for classification as an individual of extraordinary ability.

In visa petition proceedings, it is the petitioner’s burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Skirball Cultural Ctr.*, 25 I&N Dec. 799, 806 (AAO 2012). Here, that burden has been met.

ORDER: The appeal is sustained.

Cite as *Matter of G-H-C-*, ID# 3146565 (AAO July 2, 2019)