



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

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

In Re: 11969687

Date: DEC. 31, 2020

Appeal of Texas Service Center Decision

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

The Petitioner, a business executive in the specialty of wedding and event planning, seeks classification as an alien 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 the record did not establish that the Petitioner met the initial evidentiary requirements of the classification through receiving a major, internationally recognized award or meeting at least three of the evidentiary criteria under 8 C.F.R. § 204.5(h)(3).

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 international 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 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 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).

II. ANALYSIS

The Petitioner is the founder and CEO of [REDACTED] (dba [REDACTED]), a luxury wedding and event planning company based in [REDACTED], Brazil. The evidence shows that she has co-owned [REDACTED] since 2015, and been engaged in the event planning industry for several years prior. She states that she intends to continue working in this industry in the United States.

A. Evidentiary Criteria

Because the Petitioner has not indicated or established that she has received a major, internationally recognized award, she 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 did not meet any of the seven evidentiary criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x) that she claimed to in her initial filing and in response to the Director's request for evidence (RFE). On appeal, the Petitioner asserts that the Director imposed novel evidentiary requirements in his analysis of the evidence, and that she meets all seven of the criteria she previously claimed. After reviewing all of the evidence in the record, we find that she does not meet the initial evidentiary requirements for this classification.

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 bases her claim to this criterion on her, and [REDACTED], membership in the Brazilian Association of Social Events, known as ABRAFESTA. Although the evidence does not show when she first became a member of this association, copies of meeting minutes confirm that the Petitioner served as the [REDACTED] from 2013 to 2015.

Several pieces of evidence were submitted regarding this association's membership requirements, including an undated letter titled "Membership Application Approval" and signed by [redacted] of ABRAFESTA. This document states that "Any company in the segment of parties and events can apply for an ABRAFESTA membership," and that the association's board members evaluate a candidate and determine approval by a majority vote. It also states under the heading of "analysis" simply that the board "position[s] itself positively or negatively in relation to the membership," but provides no further criteria used in this analysis. Further, it indicates that board members are "entrepreneurs from the events segment, from reputable companies with over 10 years in the market."

A second letter from [redacted] this one dated January 27, 2020, states that associate members of the association must be companies or individuals in the events industry, be clear of tax and debt liabilities, submit three professional references, and be approved by a simple majority of the executive board. In addition, under a section entitled "ABRAFESTA Requires Outstanding Achievements of Their Members – Especially for Those Appointed as Members of its Executive Board," he writes that executive board membership requires that the candidate must have "a highly recognized and respected company in the industry" and "more than ten (10) years of experience in the industry," which appears to represent a different standard than that stated in his other letter. Also, a document described as ABRAFESTA's articles of association indicates in Article 13 that the executive board is elected by the shareholder's meeting, with all permanent members of the association having voting rights.

Regarding the associate membership of the Petitioner and her company, on appeal she focuses on [redacted] list of the executive board members who reviewed her application. The list indicates that most own their own companies, which is also shown by the attached resumes. Although this evidence shows that they are all experienced business owners in the events industry, it does not establish that they are nationally or internationally recognized. More importantly, in asserting on appeal that ABRAFESTA does require outstanding achievements of its members, the Petitioner highlights the requirement that they be approved by a majority of the executive board. However, she does not explain how being approved, an action taken by others, can be considered as a member's outstanding achievement, nor does she assert that any of the other requirements for membership in the association rise to the requisite level.

Turning to the Petitioner's membership on the association's executive board, we first note that we do not generally consider requirements consisting of a minimum level of education or experience in a field to be outstanding achievements. Such requirements reflect qualifications for employment in a particular job or industry and longevity, respectively, and therefore do not represent achievements which stand out from those of others in the field. Therefore, the requirement of 10 years of experience for ABRAFESTA's executive board members (whether as an individual or as an entrepreneur with a company) does not meet the requirements of this criterion.

In addition, whether the standard is that the executive member own a "reputable" company that has been in the events business for at least ten years, or that that company is "highly recognized and respected," Article 13 of ABRAFESTA's articles of association states that the judges applying that standard are the association's members, and the Petitioner has not demonstrated that all members are nationally or internationally recognized experts.

As neither the Petitioner's membership in ABRAFESTA, nor her selection to that organization's executive board, have been shown to require outstanding achievements, we find that she does not meet 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 specialization for which classification is sought. 8 C.F.R. § 204.5(h)(3)(iv)

As noted above, the evidence demonstrates that the Petitioner has served on the executive board of ABRAFESTA, and that it is executive board members who vote to determine whether to accept new members. The requirements for membership in the association were noted in the section of [redacted] dated letter pertaining to that issue, as discussed above. Neither his undated letter, nor the association's articles, elaborate further on the requirements for membership in ABRAFESTA. However, in another section of his dated letter pertaining to this criterion, [redacted] states that in deciding whether to accept a member, board members "discuss[ing] and judge[ing] the relevance and quality of the services of the candidate." However, the articles of the association and his two letters indicate that the application that is reviewed consists of a registration form, documents showing the establishment of an event planning business, a tax and debt clearance certificate, and three professional reference letters. There is no indication that the executive board members observe the work of the candidates first-hand in making the membership decision. Rather, the evidence shows that they rely upon the judgement of others as contained in the application package. Therefore, the Petitioner's service on ABRAFESTA's executive board does not meet the requirements of this criterion.¹

The Petitioner also asserts her work as a lecturer in the MBA program of [redacted] University [redacted] involved judging the work of others in her field. In a reference letter, the dean and founder of [redacted] [redacted], writes that in this role, the Petitioner "lectures on the luxury events market and how to get into the business," and "is responsible for preparing and drafting the evaluation process and reports on her students based on their performance." However, the letter does not provide detail regarding the Petitioner's evaluation of the students' work in the field, as opposed to academic study. While the Petitioner argues on appeal that the students in this program are already professionals in the field, the record does not include evidence showing that she judged the performance of their work in the event planning industry. Rather, she submitted an email in which she presented two questions to be added to a written exam, demonstrating that she took part in judging the students' academic performance.

Because the evidence does not establish that she judged the work of others in her field, we agree with the Director and find that the Petitioner does not meet this criterion.

¹ The Petitioner asserts that because the Director did not elaborate on this portion of her claim under this criterion, she effectively meets this criterion. However, we note that the Director ultimately found that she did not meet this criterion, and after reviewing the evidence in the record we agree with this finding.

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 this criterion, a petitioner must establish that not only have they made original contributions, but that those contributions have been of major significance in the field. *See Visinscaia*, 4 F. Supp. 3d at 134. For example, a petitioner may show that the original 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.

The Petitioner initially based her claim to this criterion upon her contribution to ABRAFESTA's Code of Conduct. In support of this claim, she submitted copies of emails from the association, the Code of Conduct itself, and reference letters. This evidence indicates that she was one of 26 professionals who formed a committee to review and discuss an existing version of this document, and after a meeting on June 14, 2010, "approved minor amendments" to the document. Regarding her work on this committee, [redacted] who describes herself as a photographer and former event planner, writes that the Petitioner "was a pivotal part in the creation, development and promotion of ABRAFESTA's Code of Conduct," but provides no detail about the Petitioner's contributions to this document or the basis of her knowledge of these contributions. [redacted] in another undated letter, states that the association "began codifying a practice manual," and that he observed the Petitioner's "tenacity and stamina," but also does not provide detail about her role in developing or amending the Code of Conduct. Therefore, this evidence is not sufficient to show that the Petitioner made an original contribution to her field through her participation on this committee.

In her response to the Director's RFE, the Petitioner also presented additional evidence and asserted that articles that she had written about processes, procedures and methods in the event planning industry were registered in the Brazilian National Library, "which assists other professionals in improving their services." The evidence submitted in support of this assertion includes a certificate of registration from the National Library Foundation concerning a book (not several, as the Petitioner asserts) authored by the Petitioner: [redacted] We note that the certificate states that the book has not been published. In addition, another document titled "Copyright Assignment" lists 59 "texts" authored by the Petitioner which she assigned to the website [redacted] [redacted] but does not mention whether these were also registered with the national library. Further, the previously discussed letter from [redacted] repeats the assertion that several of the Petitioner's articles and guides were registered in the national library, and states that the resulting availability of these articles "has been a major benchmark for the industry, since other professionals are able to have access to industry standards, techniques and methods..." However, the availability of articles, guides or books authored by the Petitioner and pertaining to the event planning industry, whether registered with the Brazilian National Library or posted on a website, does not establish that these materials have had a widespread impact on the industry or that any processes, procedures or methods contained within have been widely implemented. [redacted] does not state that her previous event planning career was impacted by the availability of these writings, and does not provide specificity regarding the impact they may have had on others in the industry.

The Petitioner further claims on appeal that her contribution to the book [redacted] was an original contribution to her field, but the record includes little evidence regarding either the book or the extent of any contribution to the event planning industry. A link to a webpage in the Petitioner's initial brief

shows that she is one of four individuals listed under “original idea” on the cover of the book, while a fifth person is listed as the author. [REDACTED] another of the individuals listed on the cover, states that the book “forever changed the way the general public perceived the event planning industry,” and states that a company called [REDACTED] acquired the copyright to produce a film based upon the book. However, while this evidence demonstrates that the Petitioner contributed to this original work, the record lacks evidence to support [REDACTED]’s statements regarding any success the book may have had or its impact upon the event planning industry.

Based upon our review of the evidence above, we conclude that the Petitioner does not meet 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 submitted copies of several articles authored by her in support of this criterion. These articles generally presented tips for conducting wedding and debutant receptions, and were published in the magazines *Go’Where Noiva*, *Noivas & Noivos*, and *Debutantes*. In his decision, the Director noted that scholarly articles are generally written for learned persons in the field, which includes all persons having profound knowledge of a field.² On appeal, the Petitioner asserts that these articles were written for learned individuals in her field, event planning, and were published in magazines targeted not towards the general public but “for a niche audience in specialized wedding and event planning...” However, after review we find that the evidence does not support this assertion.

For example, the website of the Go’Where publishing house states that the mission of its magazines are to offer content “to a unique audience that knows how to enjoy the bright side of life.” In addition, another page of this website states that the one of the main objectives of the publisher’s customized magazines is “to build a strong connection with customers, suppliers, and society at large.” This website does not indicate that the magazines are targeted only towards professionals in the “luxury, gastronomy and lifestyle market,” but also to consumers.

Similarly, the website for the magazine *Noivas & Noivos* states that it “is intended primarily for the female audience.” And the “letter to the reader” in the magazine *Guia Amais Noivas*, for which the Petitioner also wrote an article, states that “[O]ur goal is to help the lovebirds in this important stage of their lives...”

As the evidence does not establish that the Petitioner’s articles are written for learned persons in the field of event planning, we conclude that she does not meet this criterion.

² See USCIS Policy Memorandum PM 602-0005.1, *Evaluation of Evidence Submitted With Certain I-140 Petitions; Revisions to the Adjudicator’s Field Manual (AFM) Chapter 22.2, AFM Update AD11-14*. (Dec. 22, 2010), <https://www.uscis.gov/policymanual/HTML/PolicyManual.html>.

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)

This criterion requires evidence that a petitioner's work was displayed, and that that display occurred within an exhibition or showcase that was artistic in nature. In his decision, the Director considered the evidence regarding the Petitioner's appearance on the television show [REDACTED] [REDACTED] as well as her role as founder and partner for [REDACTED] but found that this criterion does not apply to actors and executives. On appeal, the Petitioner argues that the regulation does not include this restriction, and that it is her body of work as an event planner that is on display in the television show and in marriage celebrations she has organized, not her acting or business skills.

We agree that the plain language of this criterion does not limit the type of work being displayed, but requires that it be that of the petitioner and in his or her field. Here, regarding private marriage receptions that she has organized, the Petitioner has not established that it is her work that is being displayed. The website of [REDACTED] states that the company's role is "idealization, organization, planning, integrating each hired service, supplier, up to the coordination of the whole event." From the viewpoint of the attendees, it is the work of those suppliers (DJs, florists, chefs, etc.) that is displayed, not that of the Petitioner. In addition, she has not demonstrated that a marriage ceremony and reception is an artistic exhibition or showcase, as opposed to a religious or civil ceremony and celebration.

Turning to the Petitioner's work for the television show, the evidence does demonstrate that it is her work as an event planner that is being displayed. Specifically, the press release from the [REDACTED] [REDACTED] television channel indicates that the show focuses on the work of the Petitioner and her partner "done on the final stretch of the organization of a wedding." However, the Petitioner has not shown that this television show is an artistic exhibition or display, rather than one done for entertainment and commercial purposes.

As the Petitioner has not established that her work as an event planner has been displayed in artistic exhibitions or showcases, we conclude that she does not meet this criterion.

III. CONCLUSION

We find that the Petitioner does not satisfy the criteria relating to awards, published material, and original contributions. Although she claims eligibility for two additional criteria on appeal, relating to published media about her at 8 C.F.R. § 204.5(h)(3)(iii) and leading or critical role at 8 C.F.R. § 204.5(3)(3)(viii), we need not reach these additional grounds. As the Petitioner cannot fulfill the initial evidentiary requirement of three criteria under 8 C.F.R. § 204.5(h)(3), we reserve these issues.³ Accordingly, 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.

³ See *INS v. Bagamasbad*, 429 U.S. 24, 25-26 (1976) (stating that, like courts, federal agencies are not generally required to make findings and decisions unnecessary to the results they reach).

The Petitioner seeks a highly restrictive visa classification, intended for individuals already at the top of their respective fields. 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 her work 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 that she 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 reasons discussed above, the Petitioner has not demonstrated her 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.