



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

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

In Re: 5018245

Date: FEB. 7, 2020

Appeal of Nebraska Service Center Decision

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

The Petitioner, a photographer, seeks classification as an individual of extraordinary ability. 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 satisfied only two of the ten initial evidentiary criteria, of which he must meet at least three.

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).

II. ANALYSIS

The Petitioner indicates employment as a curator of the [REDACTED]. 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 determined that the Petitioner satisfied only two of the evidentiary criteria, judging under 8 C.F.R. § 204.5(h)(3)(iv) and artistic display under 8 C.F.R. § 204.5(h)(3)(vii). The record reflects that the Petitioner served on a jury for several photography exhibitions and displayed his work in several photography exhibitions. Accordingly, we agree with the Director that the Petitioner met the judging and artistic display criteria.

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

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 argues that he meets this criterion based on his membership with the China Photographers Association (CPA). The record provides that the CPA's task is "to unite photographers, photography practitioners and photography lovers from various ethnic groups, provide trainings to photographers, and promote the development and prosperity of Chinese photography cause," through its 50 photographers associations throughout China and more than 15,000 individual members. As evidence under this criterion, the Petitioner presented his membership card for the CPA, indicating that he has been a member of the association since 2009. He also provided a screenshot of his member page on the association's website at www.cpanet.org.cn, showing that his membership is at the [REDACTED] level.

In addition, the Petitioner provided a document titled "[CPA] Individual Membership Requirements," which shows that membership is comprised of basic and professional performance requirements. The basic requirements indicate that the applicant must be over 18 years old, a citizen of the China, agree

to the articles of association of the CPA, and submit his or her own application. The professional performance qualifications require satisfying 15 credits to submit an application for consideration, with the performance criteria tailored to whether the applicant is engaged in: 1) photographic creation; 2) photographic theoretical research; 3) photographic work, education, or accepting photographic education, or 4) photographic organizations or related works. Required materials for photographic creation are 10 pieces of photographic work, an essay, evidence the work has been awarded, selected for competition, present in exhibitions, or published. Those engaged in photographic work, education, and organizations, in addition to the above requirements, also must submit employment verification letters, while applicants who have received education in photography must provide diploma certificates. Finally, the applicant must also be recommended by two CPA members, and either a CPA group member branch or two CPA directors. The membership requirements document provides that “final approval is obtained from the CPA’s leadership team,” and the annual membership fee is ¥100.

In order to satisfy this criterion, the Petitioner must show that membership in the association is based on being judged by recognized national or international experts as having outstanding achievements in the field for which classification is sought.¹ The Petitioner’s resume indicates that at the time he became a member of the CPA, he was engaged in photographic work, as a full-time photojournalist and art editor at [REDACTED]. Although the CPA’s membership rules for applicants engaged in photographic work list professional experience requirements, the Petitioner did not demonstrate that an applicant’s accomplishments or achievements rise to the level of “outstanding” consistent with this regulatory criterion. For instance, the Petitioner did not establish that the requirement of 10 pieces of photographic work, an essay, evidence the work has been awarded, selected for competition, present in exhibitions, or published, and employment verification letters, is viewed as an outstanding achievement in the field. Nor has the Petitioner provided sufficient evidence to demonstrate that CPA applicants’ achievements are judged by recognized national or international experts.

For these reasons, the Petitioner has not submitted documentation that 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).

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 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 submitted several reference letters from colleagues in the field, including fellow curators and photographers. [REDACTED] a curator and photography critic based in China, states that he has a “long term working relationship” with [REDACTED], and has worked with the Petitioner planning the

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 AD 11-14 6-7* (Dec. 22, 2010), <https://www.uscis.gov/policymanual/HTML/PolicyManual.html> (providing an example of admission to membership in the National Academy of Sciences as a Foreign Associate that requires individuals to be nominated by an academy member, and membership is ultimately granted based upon recognition of the individual’s distinguished achievements in original research).

museum's exhibitions and conducting academic lectures and reports. He describes the Petitioner as a "young and promising photographer . . . focused on the exploration of imagination and creativity" whose works "have formed a unique, concrete and vivid response to the development of contemporary social life . . ." [redacted] did not provide specific, detailed information explaining how the field considers the Petitioner's photographic work to be of major significance, or his work as a curator for [redacted] as an original contribution of major significance.

In addition, the Petitioner offered a letter from [redacted] an associate professor of photography at [redacted] in [redacted], who made general assertions regarding the Petitioner's work without specifically identifying original contributions of major significance in the field. [redacted] states that he met the Petitioner in 2017, when [redacted] curated the [redacted] at the [redacted]. He provides that he was invited to [redacted] where he was impressed by the "virtuosity" of the Petitioner's personal photography, as well as "the depth of research and complexity" of an exhibit the Petitioner curated on the history of photography from the [redacted] region. 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.

[redacted] a senior curator based in [redacted] states he met the Petitioner while participating in the 2014 [redacted] International Photography Festival. He describes the technique of several of the Petitioner's prior photographic works, such as [redacted], [redacted], and [redacted]. He indicates that the Petitioner "has been invited to participate in various important exhibitions," including the [redacted] 2013 Chinese Contemporary Photography [redacted] Exhibition, and that his work "has been published and reported by various media." He describes the Petitioner as "one of the few artists in the domestic photography circle who has made achievements in artistic creation and theoretical commentary." While [redacted]'s letter confirms that the Petitioner's photographic work has been displayed at artistic venues it does not establish that it is a contribution of major significance in the field of photography.

The letters considered above primarily contain attestations of the Petitioner's status in the field without providing specific examples of contributions that rise to a level consistent with major significance. The Petitioner did not show, for example, that the overall field considers the Petitioner's work to be of major significance.² Letters that specifically articulate how a petitioner's contributions are of major significance to the field and its impact on subsequent work add value.³ Letters that lack specifics and use hyperbolic language do not add value, and are not considered to be probative evidence that may form the basis for meeting this criterion.⁴ 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).

² 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).

³ See USCIS Policy Memorandum PM 602-0005.1, *supra*, at 8-9.

⁴ *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).

The record contains additional evidence that the Petitioner's photographic work has been selected for several exhibitions between 2007 and the date when the petition was filed in September 2018, including the China [redacted] International Photography Culture Festival, [redacted] International Photography Exhibition, [redacted] Art Festival, [redacted] Art Festival, [redacted] Photography Exhibition, [redacted] Art Fair, [redacted] Gallery Alliance Exhibition, [redacted] Intuition and Transformation Exhibition, and [redacted] 2013 Chinese Contemporary Photography [redacted] Exhibition. However, the Petitioner has not explained or documented the scope and significance of being displayed at those exhibitions. While the record contains information from the websites of those exhibitions, the record does not reflect that selection by them represents a contribution of major significance in the field of photography.

As further evidence in support of this criterion, the Petitioner provided several articles from the websites www.blog.sina.com, www.nooderlicht.com, and the magazine *China Photo Press*. The Petitioner also submitted a catalogue from the [redacted] 2013 Chinese Contemporary Photography [redacted] Exhibition. The articles from www.blog.sina.com and www.nooderlicht.com provide the authors' impressions of the Petitioner's photographic works [redacted], [redacted], [redacted], and [redacted]. The item from *China Photo Press* contains a commentary by [redacted] on the Petitioner's work [redacted]. The exhibition catalogue provides the Petitioner's description of his intentions and technique in the photographic series "[redacted]" and a judge's impressions of the work. These articles do not show that the overall field considers the Petitioner's work to be of major significance, and the Petitioner did not elaborate on the importance of the catalog and how the field considers it to be majorly significant.

In light of the above, the Petitioner did not show he 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).

The Petitioner contends that he satisfies this criterion based upon his role as curator for [redacted]. For the reasons discussed below, the record does not contain sufficient evidence to demonstrate that the Petitioner has performed in a leading or critical role for [redacted] or that this organization has achieved a distinguished reputation. As it relates to a leading role, the evidence must establish that a petitioner is or was a leader. A title, with appropriate matching duties, can help to establish if a role is or was, in fact, leading.⁵ Regarding a critical role, the evidence must demonstrate 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.⁶

In support of this criterion, the Petitioner provided a letter from [redacted] Chairman of the Council at [redacted]. He confirms that the Petitioner has worked at the museum since 2010, in such roles as exhibition director and vice-curator, before becoming curator in 2017 and being "responsible for the academic activities and daily administration." [redacted] asserts that the Petitioner has expanded the

⁵ See USCIS Policy Memorandum PM 602-0005.1, *supra*, at 10.

⁶ *Id.*

importance and reach of three of the museum's photography brands, which are the Ranking List of [redacted] Exhibition, the [redacted] Digital Photography Art Exhibition, and the [redacted] of Photo Galleries. He claims those brands "have successfully helped the museum in establishing academic influences and in seeking art community resources around the world." He further provides that the Petitioner is the main editor of the museum's [redacted] *Photography Magazine*, and heads the museum's team that helps organize the [redacted] local government's biannual photo festival. He contends that the Petitioner "has made tremendous contributions to the development of the museum."

While [redacted]'s letter establishes that the Petitioner previously performed as a curator at [redacted], and describes the duties he has performed for the organization, [redacted] does not elucidate how the Petitioner's position fits within the overall hierarchy of the organization. For example, [redacted]'s aforementioned letter indicates that he has a "long term working relationship" with [redacted] as a curator, and [redacted]'s letter mentions [redacted]'s "professional team dedicated to academic research, exhibition implementation, public services, channel liaison and information exchange." [redacted] does not explain how the Petitioner's position as a curator relates to other [redacted] curators such as [redacted], or the members of the museum's "professional team." Further [redacted] does not sufficiently detail the Petitioner's impact on the organization.

Finally, even accepting that the Petitioner's experience constitutes a leading or critical role for [redacted] the evidence is insufficient to show that this organization has a distinguished reputation. Although [redacted]'s aforementioned letter asserts that [redacted] "has garnered a prestige around the globe," the Petitioner did not corroborate that the organization enjoys a distinguished reputation. It provided materials about [redacted] from its website, but USCIS need not rely on self-promotional material. See *Braga v. Poulos*, No. CV 06 5105 SJO, *aff'd* 317 Fed. Appx. 680 (C.A.9). The Petitioner has not provided independent evidence, such as independent media reports, to establish that [redacted] has a distinguished reputation. Regardless, the aforementioned information and evidence is not sufficient to set [redacted] apart from other museums in the field or otherwise reflect its distinguished reputation.⁷

For these reasons, the Petitioner has not shown he meets this regulatory 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

⁷ *Id.* (defining *Merriam-Webster's Dictionary* definition of "distinguished" as marked by eminence, distinction, or excellence).

has not shown that the significance of his 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 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). Although the Petitioner has served on a jury for several photography exhibitions and has displayed his work in several photography exhibitions, the Petitioner has not established that his professional accomplishments have placed him among the upper level of his field.

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.