



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

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

In Re: 6247741

Date: FEB. 26, 2020

Appeal of Texas Service Center Decision

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

The Petitioner, a fashion designer, 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 Petitioner had satisfied only two of the initial evidentiary criteria, of which she 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 entered the United States as a student to attend [redacted] University in [redacted] Kentucky. 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).

In denying the petition, the Director determined that the Petitioner fulfilled two of the initial evidentiary criteria, judging at 8 C.F.R. § 204.5(h)(3)(iv) and artistic display at 8 C.F.R. § 204.5(h)(3)(vii). The record reflects that the Petitioner served as a jury member evaluating student fashion designs and theses and displayed her work at fashion shows. Accordingly, we agree with the Director that the Petitioner met the judging and artistic display criteria.

On appeal, the Petitioner asserts that she meets two additional criteria. After reviewing all of the evidence in the record, we conclude that the Petitioner does not establish that she satisfies the requirements of at least three criteria.

*Published material about the alien 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 Petitioner contends that she satisfies this criterion based on a 2008 article published in *Dawn Newspaper* and a 2005 article published in *MAG the Weekly*. In order to satisfy this criterion, the Petitioner must demonstrate published material about her in professional or major trade publications or other major media, as well as the title, date, and author of the material.<sup>1</sup>

On appeal, the Petitioner provides a photoshoot page entitled, [redacted]” published in *Dawn Images*. Although the evidence contains a brief “designer’s profile” section, along with a behind the scenes section of the model, the material reflects a photoshoot rather than published material about the Petitioner relating to her work. Articles that are not about an alien do not fulfill this

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<sup>1</sup> See USCIS Policy Memorandum PM 602-0005.1, *Evaluation of Evidence Submitted with Certain Form I-140 Petitions; Revisions to the Adjudicator's Field Manual (AFM) Chapter 22.2, AFM Update AD11-14 7* (Dec. 22, 2010), <https://www.uscis.gov/policymanual/HTML/PolicyManual.html>.

regulatory criterion. *See, e.g., Negro-Plumpe v. Okin*, 2:07-CV-820-ECR-RJJ at \*1, \*7 (D. Nev. Sept. 8, 2008) (upholding a finding that articles regarding a show are not about the actor).

Moreover, while the Petitioner contends that [redacted] authored the material, the evidence shows that [redacted] only authored the “behind the scenes” section. Here, the Petitioner did not demonstrate the author of the remaining material, including the “designer’s profile” section.

Furthermore, although the Petitioner claims that *Dawn Newspaper* published the material, the evidence reflects publication in *Dawn Images*. In fact, the Petitioner offers a letter from [redacted] correspondent, who stated that “Dawn has published [the Petitioner’s] work . . . in its weekly publication named ‘Dawn Images.’” While the Petitioner submits evidence relating to *Dawn* (newspaper), she did not provide evidence pertaining to *Dawn Images* (weekly), nor did she establish that *Dawn Images* is a professional or major trade publication or other major medium.<sup>2</sup>

Similarly, as it pertains to the article entitled, [redacted], published in *Mag the Weekly*, the material reflects coverage of a fashion show rather than published material about the Petitioner relating to her work. While the article mentions the debut of the Petitioner and another designer, it is about a fashion show at the [redacted] by the [redacted] of Pakistan.

Further, the Petitioner asserts that *Mag the Weekly* “is a Fashion Magazine which is owned by the Jang Group of Newspaper [sic]” and “qualifies as a professional or major trade publications [sic] or other major media [sic].” Although she previously provided screenshots advertising the magazine as “famous for its unique and stylish publications,” “the Largest Circulated Magazine in Pakistan,” and “an English Popular Magazine,” the Petitioner did not submit independent, probative evidence to support the magazine’s claims. USCIS need not rely on the self-promotional material of the publisher. *See Braga v. Poulos*, No. CV 06 5105 SJO (C.D. CA July 6, 2007) *aff’d* 2009 WL 604888 (9th Cir. 2009) (concluding that self-serving assertions on the cover of a magazine as to the magazine’s status is not reliant evidence of a major medium). Moreover, the Petitioner did not establish that ownership by the Jang Group of Newspapers necessarily shows that *Mag the Weekly* is a professional or major trade publication or other major medium.

For the reasons discussed above, the Petitioner did not demonstrate 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).

The Petitioner contends that she qualifies for this criterion based on her positions with the [redacted], the [redacted], and [redacted].<sup>3</sup> She references letters from [redacted], [redacted], and [redacted]. As it relates to a leading role, the evidence must establish that a petitioner is or was a leader. A title, with

<sup>2</sup> *See* USCIS Policy Memorandum PM 602-0005.1, *supra*, at 7 (indicating that evidence of published material in professional or major trade publications or in other major media publications should establish that the circulation (on-line or in print) is high compared to other circulation statistics).

<sup>3</sup> The Petitioner did not previously claim eligibility for this criterion based on her roles with these organizations.

appropriate matching duties, can help to establish if a role is or was, in fact, leading.<sup>4</sup> 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.<sup>5</sup>

Although the letters confirm the Petitioner's employment, they do not demonstrate that she performed in a leading or critical role for any of the organizations. Instead, the letters briefly described the Petitioner's projects or assignments without providing specific, detailed information or explaining how such tasks represent leading or critical roles.<sup>6</sup> For instance, although [redacted] indicated that she hired the Petitioner to "set up and run the design and production department for the Project [redacted]" she did not explain how the Petitioner's position fit in the overall hierarchy of [redacted] or how working on a project within [redacted] contributed to the organization's overall standing in the field.

Likewise, [redacted] stated that the Petitioner "completed multiple tasks" working with several humanitarian causes. While the Petitioner's work with internally displaced people is admirable, [redacted] did not elaborate on how she performed in a leading or critical role for [redacted]. In addition, [redacted] did not explain how the Petitioner occupied a leadership position or how her performance resulted in [redacted]'s successes.

Similarly, [redacted] indicated that the Petitioner "trained the artisans in product development, created 7 production centers in districts of [redacted] district [redacted], and connected the enterprises to the main street market." Although [redacted] provided the Petitioner's job accomplishments, he did not show how such achievements reflected a leading role or was crucial to [redacted]'s overall standing. Here, the letters do not establish that she held a leading position, nor do they contain specific information signifying that she was essential to any of the organizations.

In addition, the Petitioner did not show that [redacted], [redacted], or [redacted] have a distinguished reputation.<sup>7</sup> Although the Petitioner provides website addresses for the organizations, she does not supplement the record with screenshots or other evidence supporting the website addresses. Moreover, as the website addresses indicate "about," "where-we-work," and "what-we-do," the Petitioner did not demonstrate how such information would reflect the organizations' distinguished reputations. Here, the submission of website addresses is not sufficient to establish the standings or statures of the organizations. As such, the Petitioner did not show that the organizations enjoy eminent reputations consistent with this regulatory criterion.

Accordingly, the Petitioner did not demonstrate that she fulfills this criterion.

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<sup>4</sup> See USCIS Policy Memorandum PM-602-0005.1, *supra*, at 10.

<sup>5</sup> *Id.*

<sup>6</sup> See USCIS Policy Memorandum PM-602-0005.1, *supra*, at 10 (stating that letters from individuals with personal knowledge of the significance of a petitioner's leading or critical role can be particularly helpful in making this determination as long as the letters contain detailed and probative information that specifically addresses how the role for the organization or establishment was leading or critical).

<sup>7</sup> See USCIS Policy Memorandum PM 602-0005.1, *supra*, at 10 (providing that *Webster's* online dictionary defines distinguished as marked by eminence, distinction, or excellence).

### III. CONCLUSION

The Petitioner has not submitted the required initial evidence of either a one-time achievement or documents that meet at least three of the ten criteria. As a result, we need not provide the type of final merits determination referenced in *Kazarian*, 596 F.3d at 1119-20. Nevertheless, we advise that we have reviewed the record in the aggregate, concluding that it does not support a finding that the Petitioner has established the acclaim and recognition required for the classification sought.

The Petitioner seeks a highly restrictive visa classification, intended for individuals already at the top of their respective fields, rather than for individuals progressing toward the top. USCIS has long held that even athletes performing at the major league level do not automatically meet the “extraordinary ability” standard. *Matter of Price*, 20 I&N Dec. 953, 954 (Assoc. Comm’r 1994). Here, the Petitioner has not shown that the significance of 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 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). Although the Petitioner has judged students and displayed her work, the record does not contain sufficient evidence establishing that she is among the upper echelon in her field.

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.