



U.S. Citizenship
and Immigration
Services

Non-Precedent Decision of the
Administrative Appeals Office

In Re: 10320150

Date: OCT. 19, 2020

Appeal of Nebraska Service Center Decision

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

The Petitioner, a business executive, 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 petition, concluding that the Petitioner established that she met only one of the ten initial evidentiary criteria for the requested classification, 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)(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 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 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).

II. ANALYSIS

The Petitioner indicates her most recent employment as president and CEO of [redacted] a [redacted] company that provides consulting services in real estate and capital management and investment. The evidence submitted also indicates that prior to her arrival to the United States in 2010 she was managing partner of the law firm of [redacted] president of the fashion company [redacted] and worked in some capacity with [redacted] on the construction of the [redacted] amusement parks in [redacted]

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).

In denying the petition, the Director determined that the Petitioner fulfilled one of the initial evidentiary criteria, leading or critical role at 8 C.F.R. § 204.5(h)(3)(viii). We find the evidence sufficiently establishes that the Petitioner, as the president and CEO of [redacted] plays a leading role for that company. Further, the record establishes that the Petitioner's company enjoys a distinguished reputation as a consulting company, as evidenced by its work with [redacted] [redacted] representing major U.S. companies such as [redacted]

On appeal, the Petitioner asserts that she meets four additional criteria, relating to lesser awards, published materials, original contributions of major significance, and high salary. After reviewing all the evidence in the record, we conclude that the Petitioner does not establish that she satisfies the requirements of at least three 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 Petitioner argues that she meets this criterion based on a runner-up prize in the Season magazine 2000 [redacted] competition, and a certificate of recognition from the [redacted] [redacted] at their 2015 [redacted] ceremony. In order to fulfill this criterion, the Petitioner must demonstrate that she received the prizes or awards, and they are nationally or internationally recognized for excellence in the field of endeavor.¹ Relevant considerations regarding whether the basis for granting the prizes or awards was excellence in the field include, but are not limited to, the criteria used to grant the prizes or awards, the national or international significance of the prizes or awards in the field, and the number of awardees or prize recipients as well as any limitations on competitors.² Although the Petitioner documented her receipt of a runner-up prize in the 2000 [redacted] competition and a certificate of recognition in 2015 from [redacted] the supporting evidence is insufficient to show that these are nationally or internationally recognized prizes or awards for excellence in the field.

Regarding the [redacted] competition in 2000, the evidence submitted included two articles dated 2000 from the event's sponsor, Season magazine. The first article, titled [redacted] [redacted] indicates that the Petitioner is the president of the Italian fashion boutique [redacted] in [redacted] and is pursuing a degree in management and marketing. The second article, announcing the winners of the competition, states that the "main criterion is the success of a woman, her achievements in the professional or public arena." The article indicates that the terms of the competition "do not limit the participants to age, territorial, professional, national or any other bounds," with the main goal being "to increase the status of a businesswoman in Kazakhstan." The article explains that past winners included a ballerina and the director of an international botanical company. The article further provides that for the 2000 competition a "huge number of applications for participation were submitted," and the participants were divided in categories including services, culture, tourism and sports, healthcare, education, jurisprudence, and trade. Among the 6 finalists the jury chose two runners-up and one winner. Captioned photographs accompanying the article indicate that [redacted] [redacted] was the chairman of the jury. The runners-up, one of whom was the Petitioner, received a gift from the retailer Butya of items from Christian Dior and Decleor, commercial sponsors of the event. The winner of the competition, [redacted] received a statuette of the mythical bird Simurg and a trip to Bali. The record also contains photographs showing the winner receiving her trophy and the two runners-up, including the Petitioner, receiving gift bags.

The record also contains several letters relevant to this award. [redacted] of Season magazine, states that the [redacted] competition held nominations for the most outstanding women of the country in business, sport, culture, music, trade, policy, charity, and social projects." She indicates that "the winners from each nomination were selected amongst thousands of "SEASON" readers, nationally and internationally, and from a jury consisting of the most well-known and authoritative executives and political figures of Kazakhstan" and that "[t]he [redacted] [redacted], and the popular votes of our readers" determined the recipients of that award. She states that the Petitioner was the winner in the [redacted] category of the competition, and "the story

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 6 (Dec. 22, 2010), <https://www.uscis.gov/policymanual/HTML/PolicyManual.html>.

² Id.

behind [her] business success” was published in the aforementioned 2000 Season article. [redacted] [redacted] president of Kazakhstan [redacted] a co-sponsor of the competition with the Kazakhstan [redacted] states that the Petitioner’s award in the category [redacted] was presented by [redacted] who also chaired the jury panel and determined the award winners. She indicates that the award “was open to all female citizens, without any restriction,” and that all award winners “were recognized in Season magazine.”

[redacted], a former [redacted] of Kazakhstan, indicates that “for her achievements in the cultural and business spheres” the Petitioner received “official acknowledgement as the recipient of the [redacted] in Kazakhstan Award, a national award presented to the male and female Kazakh citizen with the greatest impact on the economic development of our nation.”³ The aforementioned documentation contains apparent inconsistencies. The article and letters from [redacted] [redacted] and [redacted] indicate that [redacted] was the jury chair who chose the winner in the all-female [redacted] of the Year competition, while [redacted] indicates a competition which included male and female competitors and does not discuss his role in the [redacted] [redacted] competition. Inconsistencies in the record must be resolved with independent, objective evidence pointing to where the truth lies. Matter of Ho, 19 I&N Dec. 582, 591-92 (BIA 1988).

Notwithstanding the above, the limited evidence of the media coverage of the [redacted] [redacted] award is insufficient to establish the level of national or international recognition associated with the award. The evidence submitted does not demonstrate, for example, that the award winners receive a level of media coverage associated with a nationally or internationally recognized award in the field of business. The one article that mentions the Petitioner’s receipt of a runner-up prize, an announcement of the winners of the competition from the event’s sponsor, does not support the letters’ claims that the award is nationally or internationally recognized. The other Season article, while noting the category in which the Petitioner was nominated, does not specifically mention her winning a runner-up prize. While one article and the aforementioned letters reflect information about the competition, this documentation does not demonstrate the recognition that the award received beyond the awarding entity. For example, the record does not contain media coverage of the Petitioner’s receipt of the award in the trade or general media. In addition, although the authors describe the award as a nationally or internationally recognized award, the authors did not support their assertions with detailed, specific, and objective information explaining how the overall field views the prize beyond the sponsors of the competition. Further, the letters and articles do not provide detailed, specific, and objective information explaining the criteria used to grant award or the selection process.

As it relates to [redacted] the Petitioner provided a copy of the certificate she received at the 2015 award ceremony for [redacted] in honor of [redacted] and

³ We further note that [redacted]’s letter identifies an additional award, that the Petitioner “several years ago” received “a national honor” from the former [redacted] of Kazakhstan, [redacted], for her company’s creation of the [redacted] in [redacted] Kazakhstan; however, the Petitioner did not present any supporting evidence of her receipt of this award. The record contains an article from www.neweurasia.info that discusses the ceremonial events surrounding the official presentation by [redacted] of the new capital city of [redacted] in 1998, including the opening of the second [redacted] built by the [redacted] company, the first being in [redacted]. However, that article does not mention the Petitioner.

photographs of her receiving the certificate, which indicates it is in recognition of the Petitioner's [redacted] The evidence submitted does not establish that the basis for granting the prize was excellence in the field. Rather, it appears that the award is local in scope. The program for the event indicates that the annual award, a celebration of [redacted] initiated in 2011 by the [redacted] of the Republic of Kazakhstan [redacted] is intended "to celebrate the commitment of women throughout the many immigrant communities in [redacted] . . ." Similarly, a letter from [redacted] notes that the award is given to "20 local luminaries," "women leaders . . . throughout the [redacted]" who, while hailing from 20 different countries, reflect both the talent and multiculturalism "possessed by all [redacted]."

In addition, as noted by the Director, the Petitioner did not establish that the [redacted] award recognized the Petitioner's achievements in the field of business. [redacted]'s letter notes that the award is not restricted to the field of business, but included recipients "ruling in the courtroom, designing skyscrapers, penning best-sellers, putting out fires, caring for patients, patrolling our streets, teaching our children [and] serving in our governments." Although the Petitioner's biography from the event program highlights her employment as an entrepreneur, a letter from [redacted] the [redacted] of Kazakhstan, asserts that the Petitioner received the award for what appears to be her charitable work with the [redacted] of Kazakhstan "focused on issues that involved the basic education, protection of children's rights, and awareness campaigns concentrated on domestic abuse and violence against women."

Further, the limited evidence of the award's media coverage is also insufficient to establish the level of national or international recognition associated with the [redacted] award. The Petitioner provided a press release for the 2015 event posted on the website of its host and organizer, the [redacted] of the Slovak Republic [redacted]⁴ The record also contains a transcript of a brief television segment on the award ceremony and screenshots indicating it was posted on the Kazakh websites [redacted]/khabarTV, [redacted] user/khabarAZ, [redacted] khabar.kz, Khabar.kz, Kaztube.kz/kz/ [redacted] and [redacted]/khabartv. The transcript indicates the award is an initiative of the [redacted] of Kazakhstan, and that the winners included the Petitioner, Croatian [redacted] Indonesian producer [redacted] Romanian [redacted] Mexican [redacted] and representatives of fifteen other countries. The coverage includes the Petitioner's comment accepting the award on behalf of the women of Kazakhstan, a brief biography noting that she is a [redacted] U.S. investment company, and the opening comments of [redacted] [redacted] The press release and transcript are brief announcements of the winners of the annual award ceremony and do not demonstrate, for example, that the award winners receive a level of media coverage associated with a nationally or internationally recognized award in the business field.

Based on the above, the Petitioner did not establish that she meets this criterion.

Published material about the individual in professional or major trade publications or other major media, relating to the individual's work in the field for which classification

⁴ The record further contains press releases for [redacted] ceremonies in 2016 and 2018 from, respectively, event partner [redacted] and event host [redacted] of the Czech Republic [redacted]

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 determined that the Petitioner did not demonstrate published material about her in professional or major trade publications or other major media, including the author of the material and any necessary translation.⁵ The Petitioner provided several articles about the Petitioner from the print edition of the monthly women's magazine Season.⁶ An article dated 2000 provides that she is the president of the [redacted] in [redacted] and is pursuing a degree in management and marketing. An interview with the Petitioner dated 2007 indicates it is authored by her neighbor, contains photographs of the Petitioner wearing different designers, and states that she closed her fashion boutique and is now the head of a legal services company. Although information about Season from the website resurz.kz indicates it is "the leader in terms of sales of advertising among glossy publications," it does not provide circulation statistics. A screenshot from a 2000 edition of Season magazine indicates its "coverage" includes Kazakhstan, Uzbekistan, and Kyrgyzstan and it is "[a]n edition of 10,000 copies." However, the record lacks relevant information such as how this circulation figure compares to other print magazines in Kazakhstan, and therefore the evidence is insufficient to establish that this publication qualifies as major media.

A listing titled "International Women of Entrepreneurship – Kazakstan" on the website [redacted] contains the Petitioner's biography indicating she is the [redacted] of [redacted] in [redacted] and was managing partner at [redacted], founder of a design and construction firm, and president of the fashion business [redacted].⁷ Further, a 2005 listing of members of the Kazakhstan Association of Businesswomen on www.businesswomen.kz contains a brief biography of the Petitioner indicating she provides business and legal services as the director of [redacted]. However, this article does not include the required author of the material. The record also lacks circulation statistics for [redacted] and www.businesswomen.kz and therefore does not demonstrate that either website is a professional or major trade publication or other major media.

The Petitioner also provided the aforementioned transcript of a 2015 television segment which was posted on the websites [redacted]/khabarTV, [redacted]/user/khabarAZ, [redacted]/khabar.kz, Khabar.kz, Kaztube.kz/kz/[redacted] and [redacted]/khabartv. As discussed previously, the transcript reports the winners of the 2015 [redacted] awards and is about that ceremony and is not about the Petitioner. Articles that are not about the petitioner do not meet this 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 about a show are not about the actor). In addition, the Petitioner provided insufficient evidence to establish that those websites are considered to be major media in Kazakhstan. Although the Petitioner provided information about Khabar [redacted] indicating it is the parent company of three state-owned TV channels, Khabar, Kazakh TV, and Khabar 24., and a portion of a 2013 report titled "[redacted]" from the Open Society Media Program, stating that the Khabar media agency is a Kazakh state media holding "accessible to 98.3

⁵ See USCIS Policy Memorandum PM 602-0005.1, *supra*, at 7.

⁶ In her aforementioned letter, [redacted] states that Season magazine suspended operations sometime after celebrating its twentieth anniversary in December 2018.

⁷ We note that the co-founder of EPN (Entrepreneurs and Professionals Network), [redacted] was also the Mistress of Ceremonies at the aforementioned 2015 [redacted] awards ceremony, where her company was a partnering organization.

percent of the population,” these sources do not establish the online circulation statistics for the above websites. Moreover, while a letter from [redacted] of [redacted] states that “[a]s of 2012, [redacted] has also maintained a YouTube channel which has in excess of 200 million views,” he did not submit independent, objective evidence supporting his claims.⁸ 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 a magazine as to the magazine’s status is not reliant evidence of major media). Further, the Petitioner did not demonstrate the significance of “200 million views” or explain how such information reflects status as a major medium.

The Petitioner submitted several additional articles under this criterion. An article titled “[redacted] [redacted]” from Kapital.kz is not about the Petitioner; it examines different investment sectors and quotes the Petitioner, her partners at [redacted] and several other entrepreneurs regarding factors that favor and disfavor investing in the country. An article about Kapital from 24.kz indicates there are print and digital editions of the publication and quotes the president of the [redacted] its parent company, as stating that “[a]bout 1.5 million people visit [the website] per month.” Again, the Petitioner did not submit independent, objective evidence supporting the article’s claims, or demonstrating that 1.5 million visits per month reflects status as a major medium.

The Petitioner also provided an article from the print magazine Forbes Kazakhstan titled [redacted] [redacted] which is not about the Petitioner but quotes her in describing the consulting services provided by her company, [redacted]. An additional article published on hommes.kz contains an interview with the Petitioner and the other founders of [redacted] [redacted] and [redacted] discussing the educational consulting services they offer. The articles from Forbes Kazakhstan and hommes.kz do not include an author. A 2019 media kit from hommes.kz indicates the digital publication covers “[s]tartups, business projects, interesting cases, extraordinary people from all over the world and talented people of Kazakhstan,” and that the site receives 70,840 viewers per month. A 2016 media kit from Forbes Kazakhstan provides that the circulation of the magazine is 10,000 per month. The record lacks comparative circulation statistics for that magazine and website, demonstrating that they are a major trade publication or other major medium.

Based on the above, the Petitioner has not established that she meets the regulatory requirements of 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).

As evidence under this criterion, the Petitioner submitted several letters of support discussing her work as an entrepreneur. The Director considered this documentation but found that it was not sufficient to demonstrate that the Petitioner’s work constituted original contributions of major significance in the

⁸ 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).

field. In order to satisfy the regulation at 8 C.F.R. § 204.5(h)(3)(v), a petitioner must establish that not only has she made contributions that were original 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 the field, or have otherwise risen to a level of major significance in the field.

On appeal, the Petitioner asserts that the Director erred in determining that the letters of support from colleagues in the field were insufficient to meet this criterion.⁹ However, as discussed below, the letters do not offer sufficiently detailed information, nor does the record include adequate corroborating documentation, to demonstrate the nature of specific original contributions that the Petitioner has made to the field that have been considered to be of major significance.

For example, [redacted] a property broker and consultant in [redacted] indicates that he has worked with the Petitioner and [redacted] to provide property investment opportunities “to an exclusive group of net-worth individuals.” He states that her “partnerships with leading U.S. real estate development entities” and her understanding of the economies in the United States and Kazakhstan make her “an excellent liaison between Kazakhstani investors and the U.S. market.” He describes her as “a person of influence in positioning Kazakhstan as an attractive investment destination.”

[redacted] Kazakhstan to Mexico, states that the Petitioner is a well-regarded businesswoman in Kazakhstan and the United States. [redacted] [redacted] of the Association of Businesswomen of Kazakhstan, asserts that the Petitioner, a former member of the association, is “a highly celebrated businesswoman” in Kazakhstan who furthered women’s entrepreneurship in that country “through her participation as a speaker at various international forums and conferences.”

In her aforementioned letter, [redacted] asserts that the Petitioner was the founding member and developer of the [redacted] in [redacted] and that [redacted] “has had a substantial positive impact” on national economic growth and development. [redacted] former mayor [redacted] indicates that he “witnessed [the Petitioner’s] intensive involvement in the planning, construction, and oversight of [redacted] and that the work of the Petitioner’s team on that [redacted] “had a substantial impact on building the new face of [redacted] of Kazakhstan.” While this evidence indicates that the Petitioner contributed to the construction of the [redacted] in [redacted], it does not provide detailed information explaining the nature of her contribution or the unusual influence or high impact of her work in the overall field beyond those projects.¹⁰

Here, the letters do not contain specific, detailed information explaining the unusual influence or high impact the Petitioner’s work has had on the overall field. Letters that specifically articulate how a petitioner’s contributions are of major significance to the field and its impact on subsequent work add

⁹ While we discuss a sampling of these letters, we have reviewed and considered each one.

¹⁰ 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).

value.¹¹ On the other hand, 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.¹² 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). For the reasons discussed above, considered both individually and collectively, the Petitioner has not shown that she has made original contributions of major significance in the field.

III. CONCLUSION

We find that although the Petitioner satisfies the leading or critical role criterion, she does not meet the criteria regarding lesser awards, published material, and original contributions of major significance. While she argues and submits evidence for one additional criterion on appeal, relating to high salary at C.F.R. § 204.5(h)(3)(ix), we need not reach this additional ground. As the Petitioner cannot fulfill the initial evidentiary requirement of three criteria under 8 C.F.R. § 204.5(h)(3), we reserve this issue.¹³ 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.

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 served in a leading or critical role for a distinguished organization, 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.

¹¹ See USCIS Policy Memorandum PM 602-0005.1, *supra*, at 8-9.

¹² *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).

¹³ 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); see also *Matter of L-A-C-*, 26 I&N Dec. 516, 526 n.7 (BIA 2015) (declining to reach alternative issues on appeal where an applicant is otherwise ineligible).