



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

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

In Re: 15878036

Date: APR. 12, 2021

Appeal of Nebraska Service Center Decision

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

The Petitioner, a public relations professional, 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 although the Petitioner established that he satisfied the initial evidence requirements for this classification, the record did not establish his sustained national or international acclaim and demonstrate that he is among the small percentage at the very top of the field of endeavor. The matter is now before us on appeal.

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 sustain 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 record reflects that the Petitioner is currently employed as the Director of Communications, USA for [REDACTED]. He has nearly 20 years of experience in the media and public relations field, including 13 years performing in senior roles for major international [REDACTED].

A. Evidentiary Criteria

Because the Petitioner 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). The Petitioner submitted evidence in support of six of the ten criteria, and the Director determined that the Petitioner met three of those evidentiary criteria, relating to judging, leading or critical roles, and high salary, at 8 C.F.R. § 204.5(h)(3)(iv), (viii), and (ix). The Director then proceeded to a final merits determination and concluded that the Petitioner did not demonstrate that he has sustained national and international acclaim and is among the small percentage at the very top of his field.

On appeal, the Petitioner asserts that he meets at least one additional criterion, related to published materials in professional or major trade publications or other major media, at 8 C.F.R. § 204.5(h)(3)(iii). He also maintains that the Director’s decision failed to discuss much of the relevant evidence submitted in support of the petition and thus did not properly consider the record in its entirety when evaluating his eligibility for the benefit sought.

We agree with the Director’s determination that the Petitioner has satisfied at least three of the regulatory criteria. Accordingly, we will evaluate the totality of the evidence, including evidence the Petitioner submitted in support of the published materials and other criteria, in the context of the final merits determination below.

B. Final Merits Determination

In a final merits determination, we evaluate whether the Petitioner has demonstrated, by a preponderance of the evidence, that he has sustained national or international acclaim, that his achievements have been recognized in the field through extensive documentation, and that he is among the small percentage who have risen to the very top of the field of endeavor. *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 1119-20.¹ After evaluating the evidence in the aggregate, we conclude that the Petitioner has demonstrated that his achievements are reflective of a “career of acclaimed work in the field” as contemplated by Congress. H.R. Rep. No. 101-723, 59 (Sept. 19, 1990).

After beginning his career in publishing and operating a public relations consulting business in the [redacted] industry, the Petitioner has spent the last 13 years of his career in senior, public-facing communications and public relation roles for major international [redacted], including [redacted] [redacted] (2007 to 2013), [redacted] (2013-2015), and [redacted] (since 2015). The evidence establishes that the Petitioner has held critical or leading roles with each of these [redacted] that contributed significantly to the companies’ profits, image, and brand awareness, while also garnering the Petitioner individual acclaim and recognition as an expert in his field.

The record reflects that the Petitioner first earned international recognition in the industry for [redacted] award-winning [redacted] public relations and social media campaign in 2010, in which more than [redacted] couples competed to participate in the world’s [redacted] [redacted] Deputy CEO and Executive Vice President for [redacted] confirms that the Petitioner “initiated the idea and concept,” and managed all aspects of this campaign. She notes that the campaign “garnered media attention worldwide,” “quickly became the most covered pro-active news item in [redacted] history,” and earned the airline “instant recognition within the [redacted] communities across the globe.” [redacted] further states:

No other [redacted] initiative has come close to what the [redacted] campaign achieved. Indeed, [the campaign] is one of the most memorable [redacted] industry campaigns in history. The campaign was widely recognized as exceptional, earning a [redacted] Award for best advertising campaign from [redacted] a leading [redacted] news website; and the title of Innovator of the Year from the [redacted] Association; and much more recognition in the [redacted] industry and beyond.

In addition to the awards mentioned above, which are well-documented in the record, the Petitioner and [redacted] were nominated for [redacted] “PR of the Year Award” and [redacted]’s Digital Communications Awards in the [redacted] category in 2011.

¹ *See also* 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 AD11-144* (Dec. 22, 2010), <https://www.uscis.gov/policymanual/HTML/PolicyManual.html> (stating that USCIS officers should then evaluate the evidence together when considering the petition in its entirety to determine if the petitioner has established by a preponderance of the evidence the high level of expertise of the immigrant classification).

[redacted] President of the [redacted] which awarded the above-referenced “Innovator Award” to [redacted] confirms that the Petitioner “created and led the campaign and accepted the award on behalf of [redacted]” He explains that “what [the Petitioner] did with his [redacted] campaign ... was highly innovative and indeed ground breaking” as “the [redacted] campaign launched to the mainstream media worldwide and the [redacted] social media campaign.” [redacted] states that the [redacted] invited the Petitioner personally to give a presentation of his successful strategy at its 2011 convention. He also credits the campaign with highlighting “the importance and relevance of the [redacted] and states that “[t]he success of this campaign paved the way for other [redacted] brands to market themselves more openly to the [redacted] with a more mainstream approach.” Other industry leaders who provided letters in support of the petition similarly discuss the influence of the campaign.

[redacted] and others also emphasize that the [redacted] Campaign received “overwhelmingly positive media coverage worldwide” and the fact that the Petitioner, as the spokesperson for the campaign, was “featured extensively on TV, in radio and in print on a global level.” The record contains ample evidence of the Petitioner’s media appearances in this prominent spokesperson role (including an appearance on the BBC World News [redacted]). The record also demonstrates that the Petitioner himself was the featured subject of interviews in [redacted] professional and trade publications such as [redacted] and in [redacted]’s leading [redacted] magazine, in the years following the campaign. He also appeared on *Good Morning [redacted]* to offer his insight as a specialist in marketing to the [redacted]. The Petitioner has demonstrated that, since relocating to the United States in 2015, he continues to be consulted by leaders in the [redacted] sector who regard him as an expert and seek his insight into initiatives aimed at making [redacted] more inclusive. [redacted] founder of [redacted] an [redacted] communications and marketing company that represents Fortune 500 corporations, states in his letter that the Petitioner “has remained a leader in the [redacted]’ since the launch of the [redacted] campaign. He states that the “campaign has had a lasting impact on the global [redacted] industry, even a decade later.” Based on this and other evidence in the record, the Petitioner has demonstrated that he garnered sustained recognition in his field as a result of his work on this highly successful campaign for [redacted]

[redacted] former Vice President of Corporate Communications at [redacted] states that the [redacted] recruited the Petitioner to head the launch of its [redacted] service on the strength of his recognized success with the [redacted] campaign and his reputation for creating innovative PR and media strategies. She explains that he had overall responsibility to launch [redacted] to the worldwide media through a PR strategy and campaign that he devised, and emphasizes that the campaign “generated more than 2.7 billion media impressions and media value of over \$7.0 million within two weeks of its launch.” [redacted]’s successor, [redacted] states that the [redacted] campaign “significantly overshadowed any other PR efforts in [redacted]’s history.” She also highlights that the Petitioner initiated and spearheaded a humanitarian relief [redacted] to Haiti that earned [redacted] recognition as a finalist in the Social Good Awards’ [redacted] category.

As noted, since 2015, the Petitioner has served in the executive role of Director of Communications, USA, for [redacted] and he has provided evidence that he is compensated at a rate that is high compared to others in comparable positions [redacted] Chief Communications Officer at [redacted] states that the Petitioner was recruited to be the company’s first U.S.-based

employee, and the official media-facing spokesperson for the brand in the United States. In two detailed letters, [redacted] highlights the Petitioner's implementation of award-winning campaigns, his leadership of the [redacted]'s corporate social responsibility work, and his role as [redacted]'s delegate in meetings and events with governors, senators, and mayors across the United States. She states that "[t]he U.S. is now [redacted]'s largest market by revenue and [the Petitioner] holds the highest management position in this market." She also emphasizes that he "has become one of the most sought-after and covered [redacted] spokespeople in the U.S."

The supporting evidence corroborates [redacted]'s statements and demonstrates that the Petitioner has sustained and built on his acclaim and recognition in the field during his tenure at [redacted]. This evidence includes data from [redacted], a public relations and earned media software company and services provider, which indicates that the Petitioner's media mentions in 2019 ranked second among individuals serving in a director of communications roles for [redacted]. [redacted] President of [redacted] public relations firm [redacted] states that the Petitioner "is one of the key reasons behind [redacted]'s monumental growth success here in the United States" and "one of the most prominent [redacted] spokespeople here in the United States." [redacted] managing partner of independent marketing and communications firm [redacted] also comments on the Petitioner's status as "one of the most highly ranked spokespeople in terms of media appearances within the [redacted] industry as a whole, a truly noteworthy achievement given that [redacted] is much smaller than its competitors" in the U.S. market.

[redacted] also credits the Petitioner with being "at the forefront of supporting diversity in [redacted] with his focus on various minorities." These efforts were recognized by [redacted]'s receipt of the Inclusion Award at the 2019 [redacted] which was created by [redacted] an online social community primarily for [redacted] of color. [redacted] CEO of [redacted] [redacted] explains that the Petitioner has "whole-heartedly supported [redacted] of color across a wide range of initiatives" during his time at [redacted] including initiation of workshops and press/influencer trips aimed solely at [redacted] influencers and journalists who are people of color. [redacted] states that although the Innovator Award features [redacted] "it is [the Petitioner's] valued efforts and initiatives that are at the core of this award," and "we deeply appreciate his game-changing diversity efforts both now and moving forward." The record reflects that the Petitioner served on the [redacted] Panel at the [redacted] 2020 event and that he continues to be frequently invited to speak on podcasts, industry panels, and other platforms on subjects related to [redacted] marketing and communications, based on his status as a recognized expert in the industry.

When considered in the aggregate with the evidence discussed above, the record demonstrates that the Petitioner's achievements are reflective of a "career of acclaimed work in the field" as contemplated by Congress. H.R. Rep. No. 101-723, 59 (Sept. 19, 1990). We conclude that the record supports a finding that the Petitioner has achieved the required sustained national and international acclaim and is among the small percentage at the top of his field of endeavor. *See* 8 C.F.R. § 204.5(h)(2)-(3).

III. CONCLUSION

The Petitioner has shown that he meets at least three of the evidentiary criteria listed at 8 C.F.R. § 204.5(h)(3)(i)-(x). He has also demonstrated, by a preponderance of the evidence, sustained national acclaim and that his achievements have been recognized through extensive documentation. Finally,

he has also established that he intends to continue working in his area of expertise and that his admission will benefit prospectively the United States. He therefore qualifies for classification as an individual of extraordinary ability.

ORDER: The appeal is sustained.