U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 15865404

Date: APR. 16, 2021

Appeal of Nebraska Service Center Decision

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

The Petitioner, an actress, 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 record did not establish, as required, that the Petitioner meets at least three of the ten initial evidentiary criteria for this classification. 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 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 a 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 an actress and model who has worked in commercial, music video and film projects, as well as in print and television advertising campaigns for major brands. The Petitioner indicates that she intends to continue working as an actress 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 Petitioner claims to meet six of these ten criteria, summarized below:

- (ii), Membership in organizations that require outstanding achievements;
- (iii), Published material in major media;
- (iv), Judging the work of others in her field;
- (v), Original contributions of major significance;
- (viii), Leading or critical roles for organizations with a distinguished reputation; and
- (ix), High salary or other significantly high remuneration in relation to others.

The Director determined that the Petitioner met one of these evidentiary criteria, related to judging, at 8 C.F.R. § 204.5(h)(3)(iv). The record reflects that the Petitioner served as a jury member for the [redacted] Film Festival held in 2016 and therefore supports the Director's determination that she meets this criterion.

On appeal, the Petitioner asserts that the Director failed to apply the preponderance of the evidence standard in adjudicating the remaining criteria. She maintains that she meets five additional criteria, discussed below, and is otherwise eligible for classification as an individual of extraordinary ability. After reviewing all the evidence in the record, we conclude that the Petitioner has satisfied only one criterion and does not meet the initial evidence requirements for this classification.

Documentation of the individual'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)

To demonstrate that membership in an association meets this criterion, a petitioner must show that the association requires outstanding achievement as an essential condition for admission to membership. Membership requirements based on employment or activity in a given field, minimum education or experience, recommendations by colleagues or current members, or payment of dues do not satisfy this criterion as such requirements do not constitute outstanding achievements.[1] Further, the overall prestige of a given association is not determinative; the issue here is membership requirements rather than the association's overall reputation.

The Petitioner initially claimed eligibility based on her membership in the [redacted] private members club, noting that the club "caters to a select group of industry professionals." She submitted evidence that she paid an annual membership fee in 2018 and 2019. However, she did not provide any additional evidence to establish that this club could be considered an association in her field, nor did she provide evidence of its membership requirements or evidence that admission decisions are judged by recognized national or international experts in that field. In a request for evidence (RFE), the Director advised the Petitioner of the deficiencies in the initial evidence, clearly informed her of the elements of this criterion that must be met, and allowed her an opportunity to submit additional evidence, such as the association's bylaws or constitution.

In response to the RFE, the Petitioner maintained her eligibility based on her membership in [redacted] noting that it is [redacted] private members' clubs originally aimed at those in the arts and media." The Petitioner explained that the club has a membership committee of 30 to 40 experts from "the creative industries" who meet quarterly to discuss new members. The Petitioner emphasized that the [redacted] club has "a very long waiting list" and includes prominent actors among its members. She provided several media articles about [redacted] and submitted its "House Rules" in lieu of its bylaws or constitution.

The Director determined that the evidence did not establish that [redacted] requires outstanding achievements of its members as judged by national or international experts in the Petitioner's field. The record supports that conclusion. While membership in the club appears to be fairly exclusive, with membership decisions made at the discretion of a membership committee, the evidence does not demonstrate that the club requires outstanding achievements as an essential condition for membership, nor does it establish that the membership committee is comprised of recognized national or international experts in the Petitioner's field.

[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).

In her response to the RFE, the Petitioner also submitted evidence of her membership in the [redacted] Filmmaking Union, which she described as a [redacted] Specifically, she submitted a copy of her membership card along with an English language translation. The Director determined that this evidence was insufficient, noting that the Petitioner offered no evidence of the union's membership requirements and therefore did not demonstrate that her membership met all elements of the criterion at 8 C.F.R. § 204.5(h)(3)(ii).

On appeal, the Petitioner submits a new letter from filmmaker [redacted], who states that he is a Board Member of the Filmmaking Union [redacted] and discusses the union's membership requirements and admissions procedures. The Petitioner emphasizes that the submission of new evidence on appeal is permitted based on Chapter 3.8 of the *AAO Practice Manual.*

While there are instances in which we consider new evidence submitted on appeal, in this matter, the Director's RFE fully informed the Petitioner of the requirements of the criterion at 8 C.F.R. § 204.5(h)(3)(ii) and the type of evidence needed to demonstrate that her membership in a given association meets all elements of this criterion. She was the opportunity to submit evidence of the membership requirements for the Filmmaking Union [redacted] prior to the denial of the petition. Accordingly, we will not consider this new supporting evidence in our adjudication of the appeal. *See Matter of Soriano*, 19 I&N Dec. 764, 766 (BIA 1988) (providing that if "the petitioner was put on notice of the required evidence and given a reasonable opportunity to provide it for the record before the denial, we will not consider evidence submitted on appeal for any purpose" and that "we will adjudicate the appeal based on the record of proceedings" before the Chief); *see also Matter of Obaigbena*, 19 I&N Dec. 533 (BIA 1988). The cited section of the *AAO Practice Manual* does not supersede case law or allow for the submission of evidence that was previously requested in an RFE.

For the reasons discussed above, the Petitioner has not demonstrated that she satisfies 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 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)

To fulfill this criterion, the Petitioner must provide published material about her and relating to her work in professional or major trade publications or other major media, as well as the title, date, and author of the material.[2] The Director determined that the Petitioner submitted "articles which merely mention you, which do not include their author, and which are about your modeling career" noting that "none are about you as it relates to your work in acting." The Director acknowledged that one article, published by [redacted] briefly discusses the Petitioner's acting career, but emphasized that she did not submit comparative data showing that this publication is a major medium.

On appeal, the Petitioner maintains that the Director's determination that the published materials merely mention her is "blatantly false," noting that she was featured in the cover story of two

[2] *See* USCIS Policy Memorandum PM 602-0005.1, *supra*, at 7.

magazines as well as in several other articles. The Petitioner concedes that "not every article included the name of the author" but points to several articles in which the author was identified. The Petitioner also maintains that the plain language of 8 C.F.R. § 204.5(h)(3)(iii) does not require the submission of circulation numbers, but nevertheless emphasizes that she submitted this evidence for at least two of the submitted publications. Finally, she states that the evidence she submitted is "relevant, probative and credible" and therefore establishes by a preponderance of the evidence that she meets this criterion.

The record reflects that the Petitioner submitted articles published by [redacted], [redacted], [redacted], [redacted], [redacted], [redacted], [redacted], [redacted], [redacted], [redacted], [redacted], and [redacted].[3] We agree with the Petitioner that some of the submitted articles are about her, relate to her work as an actress, and include the required date, title and author of the material.

However, to meet all elements of the criterion at 8 C.F.R. § 204.5(h)(3)(iii), the Petitioner must provide evidence that published material about her appeared "in professional or major trade publications or other major media."[4] Here, the Petitioner submitted a considerable number of articles, but, with respect to almost all of them, she did not provide evidence to support her claim that they were published in major media publications.

Her initial evidence included a letter from the Head of [redacted] who discusses the circulation of the newspaper [redacted] noting it is "one of the most respected and successful publications in [redacted] with a circulation of 2.2 million copies" and "the leader among all print media in [redacted]" with distribution in 60 countries worldwide. The Petitioner indicated in her initial supporting letter that she was submitting an article from [redacted] but none of the articles in the record (or their accompanying English translations) clearly identify that newspaper as the source.

The Petitioner also provided a letter from the [redacted], publisher of the [redacted] newspaper. According to the letter, this weekly newspaper's circulation of 35,000 copies gives it a "leading position in the print media market of [redacted]." The letter lists other regional weekly newspapers with circulation figures that range from 7000 to 50,000 copies. However, the fact that this regional weekly newspaper has a higher circulation than some of the other weekly newspapers in [redacted] does not demonstrate that it qualifies as "major media" in [redacted]

In the RFE, the Director acknowledged that an article published by [redacted] was about the Petitioner and her acting career, but specifically noted that she did not provide evidence that [redacted] is a major media publication. In response to the RFE, the Petitioner she did not provide any additional evidence in support of her claim that published materials about her have appeared in professional or major trade publications or other major media.

[3] The Petitioner also provided evidence that she appeared as a print/editorial model in *Marie Claire* (Hong Kong) and other magazines, but these publications did not include articles about her.

[4] *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).

On appeal, the submits a screenshot from *Site Worth Traffic* (siteworthtraffic.com) which provides an estimate of "the website value of [redacted]" indicating that it reaches 1053 unique users each day and over 384,000 unique visitors per year (based on figures last updated six years ago). Even if we considered this previously requested evidence in adjudicating the appeal, it does not provide comparative data demonstrating that [redacted] qualifies as a major medium based on its circulation relative to other [redacted] online media.

For the reasons discussed, the Petitioner has not demonstrated that any of the submitted published materials about her meet all the requirements of the criterion at 8 C.F.R. § 204.5(h)(3)(iii).

> *Evidence of the individual'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)

To satisfy the regulation at 8 C.F.R. § 204.5(h)(3)(v), a petitioner must establish that not only has she 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 Director acknowledged that the Petitioner provided reference letters from actors, producers, directors and others in the entertainment industry who praise her talents and abilities, but determined that the letters did not demonstrate how she has made contributions of major significance in her field. On appeal, the Petitioner acknowledges that letters from experts in her field are not presumptive evidence of her eligibility but asserts that they nevertheless "contain substantive evidence of [her] original and significant contributions to the entertainment industry."

The Petitioner further argues that the letters "demonstrated that her work evoked widespread commentary, and thus were contributions of major significance." She emphasizes that the letters "expressly state that her performances and contributions to her field are 'unique,' 'particular,' 'significant,' and 'original.'" She also maintains that she "has major significance in the industry because she contributes and embodies the extremely unique combination of [redacted] culture." Finally, the Petitioner mentions her ability to speak [redacted] and English languages, noting that filmmakers "would be extremely hard-pressed to find another actor who brings [her] specific background to the entertainment industry."

The reputation of persons who provided letters in support of her petition is not in dispute in this proceeding, nor do we doubt their sincerity in praising the Petitioner's talents and abilities. However, it is the Petitioner's burden to both specify her original contributions and to document the major significance of those contributions in her field. The fact that she submitted credible letters from reputable individuals in her industry does not lead to a determination that she has satisfied this criterion, particularly if the letters do not shed light on the specific nature of her original contributions and their impact or influence on the field. We address a representative sample of the letters below but have reviewed and considered each one.

The Petitioner submitted a letter from actor [redacted] who states that she "has demonstrated that she can handle the demands of this industry and brings talent and devotion to every role." Music producer [redacted] praises the Petitioner's "positive attitude and goal-oriented approach to

work," and states that "her acting skills and personal qualities contribut[e] to the success in the entertainment industry." Film and television producer [redacted] describes the Petitioner as "an intelligent, worldly and beautiful contribution to our industry" and [redacted], Chairman of [redacted] states that she has "amazing ability as an actress," and "is a professional and a quality person with no bad habits." A letter from art director [redacted] states that the Petitioner has "strong acting skills" and a "unique look" which are in high demand and contribute to "the cultural diversity and richness of American cinematographic culture." [redacted] of [redacted], similarly praises the Petitioner's "very strong acting skills" and "unique look and talent," while actor and stunt/fight coordinator [redacted] states that the Petitioner is "unique in her field due to her look, language and experience working around the world."

The Petitioner also provided a letter from Hollywood producer and television series creator [redacted] who describes the Petitioner as an actress of "uncommon potential," noting that he had intended to cast her in the series [redacted] prior to its cancellation. He states that she "brings the rare qualities of authenticity from her native [redacted] roots," and praises her intelligence, integrity, sincerity and work ethic, noting that she "deserves every opportunity to contribute to the American media industry, especially as our industry develops more and more transnational outreach." [redacted], the Minster of Culture [redacted], describes the Petitioner as "a talented and beautiful person." He states that he is "very proud that she is promoting our native culture [redacted] and abroad." [redacted] film director and producer [redacted] praises the Petitioner's "outstanding artistic skills," "perfect attitude" and her "multicultural background and incredible knowledge and understanding of people around the world."

The Petitioner did not establish how having a diverse skillset, a particular cultural background or language skills, or a unique look is an original contribution of major significance in-and-of-itself. Rather, the record must be supported by evidence that the Petitioner has already used those skills and talents to impact the field at a significant level, which she has not shown. Moreover, the letters do not comment on the Petitioner's impact in the field beyond the scope of projects in which she has performed or participated.[5] General claims that she has the potential to contribute to cultural diversity in American cinema do not establish her eligibility under this criterion.

The submitted letters do not contain specific, detailed information identifying the Petitioner's original contributions and explaining the unusual influence her work has had in her field. Letters that specifically articulate how a petitioner's contributions are of major significance to the field and its impact on subsequent work add value. On the other hand, letters that lack specifics do not add value, and are not considered to be probative evidence that may form the basis for meeting this criterion.[6] Although the Petitioner emphasizes that the authors used terms such as "original," "unique" and "significant" in their letters, 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). The letters the Petitioner solicited from her international industry contacts establish that persons who have worked with her consider her to be a talented and hard-working actress, with a cultural background and physical appearance that are in

[5] *See Visinscaia v. Beers*, 4 F. Supp. 3d 126, 131-32 (D.D.C. 2013) (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).
[6] *See* USCIS Policy Memorandum PM 602-0005.1, *supra*, at 8-9.

demand in the industry and allow her to perform in diverse roles. However, they do not demonstrate her original contributions of major significance in the field of acting.

For the reasons discussed above, considered both individually and collectively, the Petitioner has not demonstrated that she meets this criterion.

> *Evidence that the individual 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)

As it relates to a leading role, a title, with appropriate matching duties, can help to establish if a role is or was, in fact, leading. 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 organizations 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. [7]

At the time of filing, the Petitioner claimed leading roles for various brands based on her commercial and print advertisement modeling work, leading roles for magazines based on her appearance as a cover model, and leading roles in film and music video projects. While she provided evidence of her participation in the modeling and acting projects she mentioned, the Director advised her in the RFE that she would need to submit additional evidence in order to establish that her work has satisfied all elements of this criterion. Specifically, the Director asked that she submit letters from executives with personal knowledge of the significance of her leading or critical role, noting that such letters should provide "detailed and probative information which specifically addresses how your role for an organization was leading or critical."

In response to the RFE, the Petitioner claimed eligibility under this criterion based on the following specific roles: (1) leading actress in a [redacted]' commercial campaign for [redacted] (2) leading actress in a commercial campaign for [redacted] Stores and its cosmetics line; (3) leading actress in [redacted] advertorials; (4) leading actress in the film [redacted] (5) leading actress in the music video for [redacted]'; and (6) leading actress in an [redacted] commercial campaign for the Chinese market. She did not submit the requested supporting letters from representatives of the organizations that employed her in these roles.

The Director acknowledged the Petitioner's claims but determined that she did not establish her eligibility under this classification because she did not submit letters from "executive officers with personal knowledge of the significance of your leading or critical role." On appeal, the Petitioner asserts that "[n]owhere in the 'plain language of this criterion' is there any mention whatsoever of 'letters from high-level executive officers with personal knowledge' of an applicant's role, let alone a requirement thereof." Further, she maintains that she submitted letters from individuals who serve as owners, CEO and chairman of companies that employed her as an actress and directors of projects in which she starred, and therefore it is "completely ridiculous" for USCIS to claim that she did not submit such letters. She highlights excerpts from several of these letters on appeal, which we address below. The individuals who provided these letters did not state with specificity how the Petitioner

[7] *See* USCIS Policy Memorandum PM 602-0005.1, *supra*, at 10.

performed for their organizations in a leading role or in a critical role that impacted the organizations' activities in a significant way.

The Petitioner refers to a letter from [redacted], owner of advertising production company [redacted] who mentions that his company has worked with the Petitioner on campaigns for brands such as [redacted] as well as two [redacted] television commercials. The letter simply confirms that the Petitioner appeared in the [redacted] campaign and does not speak to her leading or critical role within an organization. [redacted] does not represent the [redacted] brand or the company that owns it [redacted] and his letter does not establish that the Petitioner served in a leading or critical role within that organization based on her appearance as an actress in a commercial campaign for one of its products. The fact that the Petitioner appeared in commercials for a well-known brand is not sufficient to establish that she meets this criterion.

The Petitioner also submitted a letter from [redacted] CEO & Co-founder of [redacted] who states that she is "one of our leading models and actresses [who] has been of tremendous help to our entertainment enterprises." The Petitioner did not claim that she performed in a leading or critical role with [redacted], nor does [redacted]'s letter provide sufficient detail to establish how her role was leading or critical to the organization. Further, the Petitioner has not provided evidence that this organization has a distinguished reputation. The Petitioner references a similar letter from [redacted] Chairman of [redacted] who confirms that his company hired the Petitioner for "eleven (11) different projects as an actress." He does not provide any additional information that would establish how her role was leading or critical to the organization, nor does the record contain evidence demonstrating that [redacted] has a distinguished reputation.

The two remaining letters the Petitioner references on appeal are from [redacted] who directed the film [redacted] and [redacted] director of the '[redacted]' music video. The letters confirm her work as an actress in these two projects, but do not explain or establish how her acting roles were leading or critical to a specific organization or establishment with a distinguished reputation. She also provided a letter from [redacted] owner of [redacted], who discusses casting her in a lead role in his film [redacted] but he does not discuss how her work on this film was leading or critical to his independent film studio, nor does the record include evidence establishing the distinguished reputation of that studio.

Finally, the Petitioner maintains that the Director failed to consider other evidence that is relevant to this criterion, including deal memos, screenshots and photographs of her work, newspaper articles that discuss her projects, and letters from experts in her field who are familiar with her work. While this evidence confirms her participation as an actress and model in film, video, and advertising projects, it does not contain detailed and probative information that specifically addresses how the Petitioner performed in leading or critical roles for specific organizations or establishments in way that contributed to their success or standing.

For the foregoing reasons, the Petitioner has not established that she meets this criterion.

> *Evidence that the individual has commanded a high salary or other significantly high remuneration for services, in relation to others in the field.* 8 C.F.R. § 204.5(h)(3)(ix)

The Petitioner submitted the following evidence in support of this criterion:

- A screenshot from the Department of Labor's online *Occupational Outlook Handbook* indicating that the median hourly wage for actors in the United States in 2018 was $17.54.
- Screenshots from *CareerOneStop* providing salaries for actors in the [redacted] Metro area" and the United States.
- Screenshots from the Department of Labor's *ONet Online* website indicating that the 2019 median hourly wage for actors in the United States is $20.43.
- A "Model Job Sheet" issued by [redacted] showing that she earned gross (pre-commission) modeling fees of HK$155,000 between June and October 2008 for fashion and beauty editorials and a photoshoot.
- Her Russian "Statement on Physical Person's Income for year of 2013" (with English translation) showing total income of ₽8510000 paid to her by [redacted]

Evidence regarding whether an individual's compensation is high relative to that of others working in the field may take many forms, and it is the Petitioner's burden to provide appropriate evidence, which may include geographical and position-appropriate salary surveys or similar data.[8] In addition, individuals who have worked in different countries should be evaluated based on the wage statistics or comparable evidence in those countries, rather than by simply converting the salary to U.S. dollars and then viewing whether that salary would be considered high in the United States.[9]

Here, the Petitioner requested that USCIS compare her 2008 [redacted] currency earnings and her 2013 Russian currency earnings to average or median U.S. salary figures from 2018 and 2019, which as noted above, do not provide an appropriate basis for comparison. While the Department of Labor resources she provided can be useful in evaluating evidence submitted under this criterion, they are only helpful for comparison when a petitioner provides evidence of her earnings in the United States, which was not the case here. The Petitioner did not previously provide any comparative salary or wage data for the countries in which she reported her earnings. Further, the [redacted] earnings she documented from 2008 did not include salary or remuneration for acting work.

On appeal, the Petitioner provides new salary data for actors working in [redacted] Russia from SalaryExpert.com. The Petitioner's 2013 earnings from Russian company '[redacted] are high in comparison to the "average" and "senior level salary" figures provided in this survey. However, the record does not contain any other information or evidence related to [redacted] Therefore, even if we consider this new evidence offered on appeal, we cannot determine whether or to what extent the income the Petitioner received from [redacted] in 2013 was paid to her as salary or other remuneration for acting work.

The Petitioner emphasizes that she also provided deal memos relating to her work in the United States. With one exception, all of this work was to be completed in 2020 or later, subsequent to the filing of the petition in December 2019, and therefore cannot establish that she had commanded a high salary or other significantly high remuneration as of the date of filing. The Petitioner must establish that all eligibility requirements for the immigration benefit have been satisfied from the time of the filing and

[8] *See* USCIS Policy Memorandum PM 602-0005.1, *supra*, at 7.
[9] *Id.*

continuing through adjudication. 8 C.F.R. § 103.2(b)(1). A deal memo from [redacted] indicates that the Petitioner was to receive $5,000 per day for a two-day video shoot that was tentatively scheduled for late November 2019, but it was not accompanied by evidence that she had completed the shoot or been paid for this work as of the date of filing.

For the reasons discussed above, the Petitioner has not established that she meets this criterion.

B. O-1 Nonimmigrant Status

We note that the record reflects that the Petitioner has been granted O-1 status, a classification reserved for nonimmigrants of extraordinary ability. Although USCIS has approved at least one O-1 nonimmigrant visa petition filed on behalf of the Petitioner, the prior approval does not preclude USCIS from denying an immigrant visa petition which is adjudicated based on a different statute, regulations, and case law. Further, it must be emphasized that each petition filing is a separate proceeding with a separate record. In making a determination of statutory eligibility, USCIS is limited to the information contained in that individual record of proceedings. 8 C.F.R. § 103.2(b)(16)(ii). We are not required to approve applications or petitions where eligibility has not been demonstrated, merely because of prior approvals that may have been erroneous. *See Matter of Church Scientology Int'l*, 19 I&N Dec. 593, 597 (Comm'r 1988); *see also Sussex Eng'g, Ltd. v. Montgomery*, 825 F.2d 1084, 1090 (6th Cir. 1987).

Finally, our authority over the USCIS service centers, the office adjudicating the nonimmigrant visa petition, is comparable to the relationship between a court of appeals and a district court. Even if a service center director has approved a nonimmigrant petition on behalf of an individual, we are not bound to follow that finding in the adjudication of another petition. *See La. Philharmonic Orchestra v. INS*, No. 98-2855, 2000 WL 282785, at *2 (E.D. La. 2000).

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).

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.