



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

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

In Re: 17643810

Date: AUG. 20, 2021

Appeal of Nebraska Service Center Decision

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

The Petitioner, a cinematographer/director of photography, 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 record established that the Petitioner satisfied the initial evidentiary requirements for this classification, it did not demonstrate, as required, that he has sustained national or international acclaim and is among the small percentage at the top of his field. The matter is now before us on appeal.

In these proceedings, it is the Petitioner's burden to establish eligibility for the requested benefit by a preponderance of the evidence. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010). Upon *de novo* review, we will sustain the appeal.

## I. LAW

Section 203(b)(1)(A) of the Act makes immigrant visas available to aliens 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 the 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 a director of photography/cinematographer with an extensive list of film and television credits in the United Kingdom and the United States. The record reflects that he intends to continue work in his area of expertise and was under contract and/or in negotiations to work on several upcoming feature film and television projects in the United States at the time of filing.

### 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 related to eight of these ten criteria, and the Director determined that he satisfied three of them, relating to his receipt of lesser nationally or internationally recognized awards, published material about him and his work, and the display of his work at artistic exhibitions or showcases. *See* 8 C.F.R. § 204.5(h)(3)(i), (iii) and (vii).

After reviewing the record, we agree with the Director’s conclusion that the Petitioner satisfied at least three of the initial evidentiary criteria and will therefore turn to the final merits determination below.

### B. Final Merits Determination

As the Petitioner satisfied at least three of the regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)–(x), we will analyze the Petitioner’s accomplishments and weigh the totality of the evidence to determine if his successes are sufficient to demonstrate that he has extraordinary ability in the field of endeavor. In a final merits determination, we must evaluate whether he has demonstrated, by a preponderance of the evidence, that he has sustained national or international acclaim and that his achievements have been recognized in the field through extensive documentation, making him one of 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. Upon review, we conclude that the Petitioner has demonstrated his eligibility for this classification.

The record reflects that the Petitioner has consistently been recognized in the entertainment industry for his work as a director of photography for film and television productions since 2008. In that year, he received the [redacted] Award (Dramatic category) at the [redacted] Film Festival for the film [redacted] which was his [redacted] credit as a director of photography. This achievement was covered by *Variety* magazine, which named the Petitioner to its [redacted] list in 2008. The evidence further establishes that [redacted], which also earned the Petitioner a [redacted] nomination at the 2009 Film [redacted] Awards, received widespread critical acclaim with additional screenings, nominations, and awards at other major international film festivals worldwide.

The Petitioner demonstrated that he has been able to sustain his acclaim in the industry through additional achievements in cinematography that have been recognized through awards and award nominations. Further, the record reflects that many of the independent film projects on which he has worked have been official selections at the world's major film festivals, including [redacted] Film Festival, [redacted] Film Festival, [redacted] Film Festival, and the [redacted] Film Festival, thus garnering additional international recognition for his work.

For example, the Petitioner has received two additional [redacted] nominations from the Film [redacted] Awards for the films [redacted] (in 2013) and [redacted] (in 2015). He provided evidence that the [redacted] Awards are considered significant in the industry and receive media coverage in major trade publications including *Hollywood Reporter*, *Variety*, and *Deadline*. The Petitioner's work as director of photography for [redacted] also earned him a nomination for a [redacted] Award at the [redacted] Awards, and the film received multiple awards at the [redacted] Film Festival. In 2012, the Petitioner was a nominee for a [redacted] award at [redacted] the [redacted] Film Festival of the [redacted] for his work as director of photography for [redacted]. This film also received nominations at the [redacted] and [redacted] Film Awards. The Petitioner's additional film credits include [redacted] and [redacted] which both received [redacted] Award nominations for [redacted] Film, in 2014 and 2016, respectively.

The Petitioner's television credits include [redacted] (for which he served as director of photography for [redacted], [redacted], [redacted], the British series [redacted] and the British miniseries [redacted]). He received a [redacted] Award in the [redacted] category for his work on [redacted] in 2014 and was nominated for a [redacted] Award for [redacted] for [redacted] in 2011. The Petitioner has also served as director of photography for music videos for several notable British artists and received a 2010 [redacted] Award for Best Cinematography in a Video.

Further, the record demonstrates that the Petitioner and his work in the film and television projects mentioned above have been featured in professional and major trade publications, including, among others, *Variety*, *Filmmaker Magazine*, *The Film Stage*, which featured [redacted] in its "Best Cinematography of 2016" list, and *British Cinematographer*, which has published lengthy pieces on the Petitioner and his work on [redacted] (2012), [redacted] (2016), and [redacted] (2020). He was also featured in a [redacted] list published by *The Playlist* in 2016, which praises his body of work and states that he [redacted]. The Petitioner

and his cinematography work in [redacted], [redacted] and [redacted] have also been highlighted in case studies featured on the websites of prominent camera manufacturers [redacted] and [redacted]. Considered in the aggregate, the record reflects that the Petitioner has been consistently covered in industry media since 2008, thus adding to his sustained acclaim and recognition in his field.

The record further demonstrates that the Petitioner has been recognized for his expertise through his nomination and selection as a full member of the [redacted] for which he has also served on the [redacted], and the [redacted]. A letter from [redacted] states that membership is “by invitation only” and “is awarded only to directors of photography who have proved themselves to be among the very best in the field.” The supporting evidence describing the [redacted] membership requirements and standards for full membership supports this statement and indicates that those selected must have at least five years of substantial film and television credits and be judged as having outstanding artistic achievements in cinematography. The number of fully accredited [redacted] members is small, at just over 100, and reflects that those admitted are at the top of the field among [redacted] cinematographers. While the membership requirements for [redacted] appear to be somewhat less stringent, the Petitioner’s full voting membership in that association indicates that he is regarded as an artist who has made a “significant contribution” to his industry. The record reflects that the Petitioner has received further recognition by being invited to deliver a [redacted] by serving as an invited panelist at the [redacted] Film Festival, and by receiving an invitation to judge the cinematography category for the [redacted] Awards in 2020.

The record also contains letters from the Petitioner’s U.S. and U.K. talent representatives who discuss his prominent upcoming projects (including a [redacted]), high remuneration relative to his peers, and demonstrated record of working with renowned directors on critically acclaimed and award-winning projects. When considered in the aggregate with the evidence discussed above, 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). We conclude that the record supports a finding that the Petitioner is among the small percentage at the top of his field of endeavor and that he has sustained national or international acclaim. *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 sustained national and international acclaim and that his achievements have been recognized through extensive documentation. Lastly, the Petitioner has shown that he intends to continue working in his area of expertise and that his work will substantially benefit prospectively the United States. He therefore qualifies for classification as an individual of extraordinary ability.

**ORDER:** The appeal is sustained.