



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

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

In Re: 13065567

Date: JAN. 29, 2021

Appeal of Texas Service Center Decision

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

The Petitioner, an architectural designer, seeks classification as an alien of extraordinary ability. *See* Immigration and Nationality Act (the Act) section 203(b)(1)(A), 8 U.S.C. § 1153(b)(1)(A). This first preference classification makes immigrant visas available to those who can demonstrate their extraordinary ability through sustained national or international acclaim and whose achievements have been recognized in their field through extensive documentation.

The Director of the Texas Service Center denied the petition, concluding that the record did not establish that the Petitioner had satisfied at least three of ten initial evidentiary criteria, as required. The matter is now before us on appeal.

In these proceedings, it is the Petitioner's burden to establish eligibility for the requested benefit. 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 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 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 Petitioner earned master's degrees in architecture at the University [redacted] and the University of [redacted]. After working in the United States for [redacted] Architecture [redacted] from 2009 to 2010, and at [redacted] from 2010 to 2013, the Petitioner returned to China as a co-founder and chief architect at [redacted] in [redacted]. Projects discussed in the record include [redacted] (a [redacted] arts exhibition space [redacted]) in [redacted], China; [redacted] (a mixed-use development incorporating a shopping mall, apartments, and an office building); and [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). The Petitioner claims to have met three criteria, summarized below:

- (i), Lesser nationally or internationally recognized prizes or awards;
- (iii), Published material about the alien in professional or major media; and
- (v), Original contributions of major significance.

The Director concluded that the Petitioner met the two evidentiary criteria numbered (i) and (iii), and we will not disturb that conclusion. On appeal, the Petitioner asserts that she also meets the remaining claimed criterion. As explained below, after reviewing all of the evidence in the record, we conclude that it does not show that the Petitioner satisfies the requirements of at least three criteria.

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)

In order to satisfy this criterion, petitioners must establish that not only have they made original contributions, but also that those contributions 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 phrase “major significance” is not superfluous and, thus, it has some meaning. *See Silverman v. Eastrich Multiple Investor Fund, L.P.*, 51 F. 3d 28, 31 (3rd Cir. 1995) quoted in *APWU v. Potter*, 343 F.3d 619, 626 (2nd Cir. Sep 15, 2003).

As noted above, the Director concluded that the Petitioner has won awards and earned media coverage for her work. The Petitioner asserts that the awards and coverage are, themselves, evidence of the significance of her contributions. The regulatory framework calls for converging lines of evidence, consistent with the “extensive documentation” required by section 203(b)(1)(A)(i) of the Act. For this reason, while a given piece of evidence may be relevant to multiple criteria, satisfaction of any one criterion does not invariably demonstrate satisfaction of others.

The Petitioner submits letters from several individuals in the field of architecture, most of whom have employed, supervised, or trained the Petitioner. Some of these individuals offer general praise for the Petitioner’s abilities, and their opinions about particular projects, but they do not specify how her contributions have had major significance in the field. For example, a professor who taught the Petitioner during her graduate studies at [redacted] states that the Petitioner “proved her outstanding ability in transforming radical concepts into solid design schemes,” and calls [redacted] “a true spectacle,” describing the structure without explaining its larger significance in the field of architectural design.

Likewise, a design director who previously worked with the Petitioner at [redacted] states that the Petitioner’s “design knowledge and ability was [sic] a critical part of the success of multiple important projects . . . [that] are both highly complex and exceptionally innovative in their design.” He identifies the projects and states that the Petitioner “more than was able to rise to the task,” but does not explain the significance of the Petitioner’s work on those projects. In a follow-up letter, he cites one claimed example of the Petitioner’s influence, stating that “the [redacted] Opera House . . . , announced in 2019, . . . has almost the same approach as the [redacted] project, and is also a side proof of [redacted]’s innovative impact.” He cites no source for the information, and the Petitioner identifies no corroborating documentation in the record. Therefore, this assertion carries negligible weight as a purported example of the Petitioner’s influence on the field.

The Petitioner also submits letters from editors of various publications. For example, the founder and editor in chief of *ArchDaily* calls the [redacted] center a “great example of [the Petitioner’s] exceptional work.” He asserts that “publication[] of her representative works . . . can certainly bring invaluable inspiration to other designers,” but this attests to *potential* impact and influence without showing that the Petitioner’s work is of major significance in the field of architectural design.

The assistant deputy editor of *Domus* discusses some of the Petitioner’s designs, and states: [redacted]
[redacted]
[redacted]
[redacted] This general statement does not suffice to explain how the Petitioner’s contributions are of major significance.

On appeal, the Petitioner contends: “There are elements of her work which serve as building blocks to the future success of design, and while this premise may seem ‘insignificant,’ on the contrary, foundational work is the start of many groundbreaking contributions.” The burden, however, is on the Petitioner to show that her work is recognized as “foundational,” and is being used “as building blocks to the future success of design.” Speculation that future architects and designers *could* rely on her work has no weight in this proceeding.

The Petitioner asserts that the record shows that she “has been instrumental in the creation of dozens of architectural designs . . . which have been widely implemented and resulted in economic benefits.” The burden is on the Petitioner to document those claimed benefits, and to show that they result from her design work, rather than the underlying project.

For example, a shopping mall will have a commercial impact owing to the retail sales that occur there as a matter of course; the Petitioner cannot simply claim credit for that impact because she was involved in the architectural design of the facility where those sales take place. A particularly innovative design may increase traffic to that shopping mall, but it is up to the Petitioner to show how this is the case.

The Petitioner does not meet this burden on appeal. For instance, she provides information about “an urban complex that integrates [a] large shopping mall, office building, apartment and residence.” The Petitioner then provides information about the complex, and claims that it “has become an industry benchmark in China’s shopping malls,” but does not explain how this is due to the Petitioner’s architectural design work rather than other attributes of the complex, such as the intrinsic demand for shopping, office, and residential facilities. The Petitioner also does not show that it was she who conceived the idea of consolidating these different facilities into a single complex, or that her work has influenced others in her field.

The Petitioner asserts that the various projects are “examples [of] utilization/application of her work,” but the construction of buildings from plans she was hired to prepare does not show influence beyond that project. Not every completed structure is inherently an original contribution of major significance in the field. The Petitioner does not claim that the designs she has created for the various projects have had a significant effect on the field of architectural design. Rather, she asserts that her “architectural designs have resulted in buildings, resorts, malls, bridges, etc., which are currently being utilized by millions of consumers,” but she offers no explanation as to why the success of a given commercial project establishes major significance *in the field of architectural design*.

The Petitioner has not sufficiently shown that her original contributions are of major significance in the field of architectural design.

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 conclusion 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. Here, the Petitioner has demonstrated her involvement in some high-profile architectural projects, but she 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 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). Submitted letters refer to the Petitioner’s work as influential but do not document that influence. Much of the media coverage documented in the record appears to be promotional in nature. The Petitioner has established that she is a creative and successful architectural designer, but has not demonstrated a level of acclaim that would place her at the top of the 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.

ORDER: The appeal is dismissed.