



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

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

In Re: 9978901

Date: SEP. 14, 2021

Motion on Administrative Appeals Office Decision

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

The Petitioner, a film director and producer, 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 Petitioner had not satisfied any of the initial evidentiary criteria, of which she must meet at least three. We dismissed her subsequent appeal, concluding that she had not submitted the required initial evidence of either a one-time achievement or documented that she meets at least three of the ten criteria.<sup>1</sup>

The matter is now before us on a motion to reopen. On motion, the Petitioner submits additional evidence, asserts that she meets four of the initial evidentiary criteria, of which she must meet three, and that she has established her eligibility for the classification sought.

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 review, we will dismiss the motion to reopen.

## I. LAW

### A. Motion to Reopen

A motion to reopen is based on documentary evidence of *new facts*. The requirements of a motion to reopen are located at 8 C.F.R. § 103.5(a)(2). We may grant a motion that satisfies these requirements and demonstrates eligibility for the requested immigration benefit.<sup>2</sup>

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<sup>1</sup> *See In Re: 4699024*, (AAO Dec. 20, 2019).

<sup>2</sup> As the Petitioner notes on motion, the regulation at 8 C.F.R. § 103.5(a)(1)(iii)(C) specifies the motion filing requirements, providing that a petitioner must submit "a statement about whether or not the validity of the unfavorable decision has been or is the subject of any judicial proceeding and, if so, the court, nature, date, and status or result of the proceeding." The regulation at 8 C.F.R. § 103.5(a)(4) requires that "[a] motion that does not meet applicable requirements shall be dismissed." We note that the record lacks such a statement.

## B. Extraordinary Ability

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 sustained acclaim and the 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

In our decision, we determined that the Petitioner satisfied one of the initial evidentiary criterion related to scholarly articles under 8 C.F.R. § 204.5(h)(3), of which she must meet three, and accordingly dismissed her appeal. On motion, the Petitioner reasserts her eligibility for the classification sought and presents new documentation related to the evidentiary criteria at 8 C.F.R. § 204.5(h)(3)(i), (v), and (viii). As we note above, a motion to reopen is based upon documentary evidence of *new facts*. *See* 8 C.F.R. § 103.5(a)(2). For the following reasons, the evidence submitted by the Petitioner on motion does not establish her eligibility for the classification sought. Accordingly we will dismiss her motion to reopen.

*Documentation of the alien'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 initially asserted eligibility for this criterion through her receipt of awards for the television program [redacted] the movies [redacted] and [redacted] her receipt of the [redacted] medal, and a national award from the [redacted] for the film [redacted] and its "contribution for the liberation of Ukraine at the time of anti-people power." On motion, she also addresses the film [redacted] to assert that she meets this criterion.

With respect to [redacted] we acknowledged in our decision that the program received the [redacted] award and concluded that the record showed this award to be nationally or internationally recognized for excellence in filmmaking. However, we determined that the Petitioner had not shown herself to be a recipient of this award. We noted that "screenshots from [redacted] attribute the film award to [redacted]" while an initial letter from [redacted] director of [redacted] [redacted] stated, "[redacted] received this prestigious national award for the project [redacted] 2006 ... ." We therefore concluded that "the record indicates that an entity, as opposed to the Petitioner, received the award," and identified this entity as either [redacted] or [redacted]. On motion, the Petitioner provides no additional evidence resolving the issue of whether [redacted] or [redacted] received the award. A petitioner must resolve inconsistencies of record with independent, objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591 (BIA 1988). Without additional evidence resolving this inconsistency she has not overcome our concerns on motion.

Instead, on motion she reasserts that she received the [redacted] award and submits unsourced photographs. The first photograph is of the award only and does not contain a caption. The second photograph is of the Petitioner holding this award and bears the caption, [redacted] [redacted] and states that [The Petitioner] was the director of the TV version of this program on the TV channel [redacted]"<sup>4</sup> However, [redacted] asserts in his supplemental letter that "[o]wning [sic] to [the Petitioner]'s critical role" in this production [redacted] and [the Petitioner] were awarded the [redacted] Award [redacted]" As we noted in our original decision, the screenshot from the website of the [redacted] award credits only [redacted] as an award recipient. The documentation submitted on motion is therefore inconsistent with the evidence initially presented by the Petitioner to establish that she meets this criterion. As we note above, the Petitioner must resolve inconsistencies in the record with independent, objective evidence pointing to where the truth lies. *Ho*, 19 I&N Dec. at 591-92. Without evidence resolving whether she, [redacted] [redacted] or both she and [redacted] received this award, the Petitioner has not shown that she meets this criterion.

In our decision, we found that the Petitioner had not established that the films [redacted] [redacted] and [redacted] received awards; accordingly we could not determine if she also was a recipient of these films' awards. On motion, the Petitioner offered new evidence demonstrating that [redacted] received the [redacted] at the 2015 [redacted] Film Festival

<sup>3</sup> This award is referred to as "[redacted]" and "[redacted]" in the record.

<sup>4</sup> We note that the evidence on motion indicates that [redacted] or "[redacted]" is the TV channel on which this program appeared.

[redacted], that [redacted] received the [redacted] Best Film Award at the [redacted] Festival of Film, and that [redacted] received the International Film [redacted] award for [redacted] at the [redacted]. The Petitioner then reasserts that she received the award for the film [redacted] because she was its creative producer, that she received the award for [redacted] as its creative producer, and the award for [redacted] as its executive producer “(together with [redacted]).”

However, the evidence submitted on motion does not support the Petitioner’s contention that she served as a producer of these films. Regarding [redacted] on motion, the Petitioner provides a letter of recommendation from [redacted] a film director, the film’s IMDb entry, and a printout from Festival Scope about the film. [redacted] states that the Petitioner was the creative producer for [redacted]. However, she is not identified as such either in the film’s IMDb entry or on its entry on Festival Scope. Elsewhere in the record, a photocopy of the film’s poster identifies the producer only as [redacted] and does not list the Petitioner as a co-producer. With respect to [redacted], the Petitioner also provides a document from Festival Scope and its IMDb entry. The former attributes [redacted]’s production to [redacted] and [redacted] and the latter provides no information on the film’s producers and makes no reference to the Petitioner. For [redacted], the Petitioner submits printouts from the film’s distribution company and announcements of its film screenings at the [redacted] Film Festival and the [redacted] Film Festival. These documents do not identify the Petitioner as affiliated with the film; all three identify the film’s director by name, and no one else. By the preponderance of the evidence, the documentation submitted on motion does not support the Petitioner’s assertion that she produced these films, and by extension, her claim that she satisfies this criterion.

In our decision, we also acknowledged the Petitioner’s receipt of an award from the [redacted] for the film [redacted] and the resulting “contribution for the liberation of Ukraine at the time of anti-people power,” but found that she had not established that it was nationally or internationally recognized for excellence in the field, as required at 8 C.F.R. § 204.5(h)(3)(i). On motion, the Petitioner resubmits a copy of this award, the award’s translation, a letter from [redacted] Ph.D., program head of the [redacted] University School of Film and Photography, and the aforementioned letter from [redacted].

[redacted] speculates that this award “may well be for her efforts to promote a greater understanding of her country through film,” and that it was the quality of her films that “promoted a freedom message.” Apart from this statement, he does not explain how an award granted for contributing to Ukraine’s liberation equates to an award given for excellence in film direction. Further, [redacted] does not discuss whether the award was nationally or internationally recognized for such excellence. In his letter, [redacted] does assert that the award was given to the Petitioner in “national recognition” of the film, but the record lacks evidence, such as media reports or other relevant materials, demonstrating this national recognition or showing how this demonstrates the significance of the award in the field of filmmaking.<sup>5</sup> For these reasons, the evidence submitted by the Petitioner on motion does not establish

<sup>5</sup> See 6 USCIS Policy Manual F.2(B)(2), Appendix: Extraordinary Ability Petitions – First Step of Reviewing Evidence, <https://www.uscis.gov/policy-manual/volume-6-part-f-chapter-2> (noting relevant considerations in determining if the award or prize meets this criterion, among others, are its national or international significance in the field.)

by the preponderance of the evidence that this award is nationally or internationally recognized for excellence in her field. Accordingly it is not sufficient to demonstrate that she meets this criterion.

We also determined in our decision that the Petitioner's receipt of an award from the [redacted] [redacted] did not satisfy this criterion. On motion, she contests our finding, providing a photograph of the award, its translation, and the aforementioned letter from [redacted]. The photograph includes an unsourced caption stating "[i]n May of 2006, [the Petitioner] shot [redacted] after which she received... the [redacted] medal for high quality footage." The Petitioner does not provide evidence or documentation from the [redacted], [redacted] officials, or others, corroborating this statement.

[redacted] opines that "[t]he innovations she brought to the program were so significant that the [redacted] felt it was worthy of a special award" and concludes "[t]his unusual honor suggests that it was the high quality of her filmmaking that led to this award." Here [redacted] states that the [redacted] awarded this medal because the institution felt the Petitioner's innovations were significant but does not explain how the [redacted] reached this conclusion. USCIS need not accept primarily conclusory statements. *1756, Inc. v. The Attorney General of the United States*, 745 F. Supp. 9, 15 (D.C. Dist. 1990). The Petitioner does not provide evidence corroborating [redacted]'s assertion that the [redacted] awards the medal for excellence in filmmaking. Further, the record lacks evidence demonstrating that the medal is nationally or internationally recognized in the field, such as documentation establishing its significance of the award in that field.<sup>6</sup> Absent this evidence, the Petitioner does not demonstrate on motion that her receipt of this award satisfies this criterion.

For the aforementioned reasons, the Petitioner has not demonstrated on motion that she meets this regulatory 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).

Initially, the Petitioner claimed as her original contribution a [redacted] style of lighting used to create the visual effect [redacted] which she alleged was copied in other productions. We concluded that the record did not establish that she made an original contribution and that it was of major significance in the field. *See* 8 C.F.R. § 204.5(h)(3)(v).<sup>7</sup>

On motion, the Petitioner reasserts her claim that her film making technique meets this criterion, submitting evidence related to her work on a DVD of a concert performed by the Ukrainian musical group [redacted]. Additionally, she asserts that a course on animation-directing that she taught at the [redacted], and a book she authored [redacted] [redacted] constitute original contributions of major significance in her field.

<sup>6</sup> *See* 6 USCIS Policy Manual F.2(B)(2), Appendix: Extraordinary Ability Petitions – First Step of Reviewing Evidence, <https://www.uscis.gov/policy-manual/volume-6-part-f-chapter-2>.

<sup>7</sup> *Id.* (providing an example that although work may be "original," this fact alone is not sufficient to establish that the work is of major significance).

Regarding the [redacted] concert DVD, the Petitioner provides screenshots of the DVD's credits, establishing her involvement in its production and a letter of recommendation from [redacted], a Russian songwriter and musician. [redacted] indicates that he worked with the Petitioner on other projects, but not with her directly on the [redacted] production. However, he claims that the "unique technical solution" employed by the Petitioner during this project are original artistic contributions of major significance as "after the released [*sic*] of the DVD-disk, this technical solution was used not only by [redacted] but also by several other bands and directors. [redacted] also asserts that "[the Petitioner]'s previous achievements as a director" constitute an original contribution of major significance in the field of filmmaking. Letters that specifically articulate how the noncitizen's contributions are of major significance to the field and its impact on subsequent work add value. Letters that lack specifics and make broad, unsupported assertions do not add value, and are not considered to be probative evidence that may form the basis for meeting this criterion.<sup>8</sup> [redacted]'s correspondence does not contain specific examples of how other bands and directors have used her work, or how her previous achievements as a director have remarkably impacted the field of film direction. Further, Petitioner does not provide evidence corroborating [redacted]'s assertions, such as letters from television or movie directors or other relevant materials. In the absence of such documentation, his letter is not sufficient to establish that the Petitioner meets this criterion.

On motion, the Petitioner also claims that the course on animation direction that she developed and taught at [redacted] constitutes an original contribution of major significance. She provides a statement from [redacted] and a letter of recommendation from [redacted], a Russian director and producer, in support of her argument. The proffered statement from [redacted] confirms that from December 2014 until July 2015, the Petitioner authored and taught this course "on the basis of her vast personal experience as a practitioner-animator." [redacted] notes that course's "uniqueness... lies in the fact that only after [the Petitioner] agreed to teach the course... was [redacted] able to recruit a group of film and television directors" to attend the course.<sup>9</sup> Neither [redacted]'s correspondence nor the [redacted] document contain specific examples, and the record lacks other evidence, demonstrating how her development and instruction of the course has remarkably impacted the field of film direction and production in a manner indicative of major significance. Accordingly, the Petitioner's evidence is insufficient to show that this course satisfies this criterion.

The Petitioner newly asserts on motion that her book [redacted] [redacted] "can be considered as a scientific contribution in the field of endeavor." She resubmits an article titled [redacted] [redacted] photocopies of the book's front and back covers and binding, and the first page of its first chapter, along with its translation.<sup>10</sup> She submits a solicited letter of recommendation from [redacted] [redacted] a journalist and producer. [redacted] first describes the book as examining [redacted] [redacted]

<sup>8</sup> See 6 USCIS Policy Manual F.2(B)(2), Appendix: Extraordinary Ability Petitions – First Step of Reviewing Evidence, <https://www.uscis.gov/policy-manual/volume-6-part-f-chapter-2>.

<sup>9</sup> [redacted]'s statement is inconsistent with the [redacted] document, which identifies class attendees as "students of the [redacted]." A petitioner must resolve this inconsistency in the record with independent, objective evidence pointing to where the truth lies. *Ho*, 19 I&N Dec. at 591-92. Here the Petitioner does not provide evidence resolving whether [redacted] students or film and television directors attended her course.

<sup>10</sup> We previously reviewed this evidence and determined it established that she met the scholarly articles criterion but did not address it in the context of original contributions.

[redacted], [redacted] “is positive that [the Petitioner]’s analysis facilitates creative development of post-Soviet audience via better understanding of its cultural heritage” and concludes that this book “is paramount for further research in the field of filmmaking.” As a result of this analysis [redacted] asserts that the Petitioner’s book “clearly constitutes **an original contribution of major significance to the field of filmmaking**” (emphasis in original). However, as we note above, letters that specifically articulate how the noncitizen’s contributions are of major significance to the field and its impact on subsequent work add value. 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.<sup>11</sup> [redacted] does not provide specific examples demonstrating that the Petitioner’s work has facilitated the development of its target audience or showing its impact on research in the field of filmmaking, and the record lacks evidence corroborating his claims. Without additional evidence demonstrating that this book has widely impacted or received widespread recognition in the field of film direction and production in a manner reflecting major significance, the Petitioner has not established that she meets this criterion through her authorship of this text.

*Evidence that the alien 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).

In our dismissal, we found the Petitioner did not establish her leading role for [redacted] and she does not contest this on motion. We also found that the Petitioner had not established that she served in a critical role for this entity. On motion, she reasserts that she has performed in a critical role and submits the aforementioned statements from [redacted] and [redacted]. Both statements discuss the Petitioner’s production of [redacted] and [redacted] for Euromedia, one of [redacted]’s customers. [redacted] explains that “her critical role was paramount to [redacted] [sic] success and reputation and to Ukraine” as it “helped thousands of students... choose the best educational institution for their needs.” He continues, “[c]lear evidence of **[the Petitioner]’s critical role in our company** is her leadership in our most complex a [sic] prestigious projects, **all of which resulted in the highest ratings of our broadcasts.**” (emphasis in original.) However, [redacted] does not offer specific examples showing how the Petitioner’s work for [redacted] directly resulted in these increased ratings. Further, the Petitioner does not submit corroborative evidence of his claims, such as ratings for these programs, or other appropriate documentation.

[redacted] similarly asserts that the Petitioner served in a critical role for [redacted] as, when the Petitioner started “international projects [redacted] and [redacted] the ratings of the TV channels where they were broadcasted in Azerbaijan and Kazakhstan went through the roof!” Letters from individuals with personal knowledge of the significance of the noncitizen’s leading or critical role can be particularly helpful as long as the letters contain detailed and probative information that specifically addresses how the noncitizen’s role for the organization or establishment was leading or critical.<sup>12</sup> [redacted]’s letter does not indicate how he arrived at his personal knowledge of the Petitioner’s critical role for [redacted] or contain detailed information establishing that her direction of these programs resulted in increased television ratings. Moreover, the record does not establish that [redacted] was employed by [redacted] or had employed the Petitioner.<sup>13</sup> His letter therefore is not sufficient

<sup>11</sup> See 6 USCIS Policy Manual F.2(B)(2), <https://www.uscis.gov/policy-manual/volume-6-part-f-chapter-2>.

<sup>12</sup> *Id.*

<sup>13</sup> See 8 C.F.R. § 204.5(g)(1); see also 6 USCIS Policy Manual F.2(B)(2), Appendix: Extraordinary Ability Petitions –

to demonstrate that the Petitioner performed in a critical role for [redacted]. Additionally, the Petitioner does not submit evidence establishing [redacted]'s distinguished reputation. She therefore has not demonstrated that her role with [redacted] satisfies this criterion.

On motion, the Petitioner newly asserts that she served in a critical role for [redacted] as she developed the previously discussed course at [redacted], referencing both the previously discussed letter from [redacted] [redacted], and the document from [redacted].<sup>14</sup> In his letter, [redacted] explains that the Petitioner's course was critical to [redacted] as it "allowed [redacted] to expand the student base," but does not provide specific examples showing how it did so. As we note above, letters from individuals with personal knowledge of the significance of the noncitizen's leading or critical role can be particularly helpful as long as the letters contain detailed and probative information that specifically addresses how the noncitizen's role for the organization or establishment was leading or critical.<sup>15</sup> Here [redacted] does not indicate how he has personal knowledge of the Petitioner's role at [redacted]. Further, his letter lacks detailed information demonstrating how her role was critical to [redacted] and the Petitioner does not submit evidence corroborating his assertion that her course increased [redacted]'s student base. Therefore [redacted]'s letter is not sufficient to demonstrate that the Petitioner meets this criterion. In addition, the record lacks evidence establishing [redacted]'s distinguished reputation.<sup>16</sup> Accordingly, this evidence is insufficient to establish that the Petitioner served in a critical role for an organization with a distinguished reputation.

### III. CONCLUSION

For the reasons discussed above, the Petitioner does not submit documentary evidence sufficient to overcome our original finding that she did not satisfy at least three of the evidentiary criteria. Therefore, she has not overcome the grounds underlying our previous decision or demonstrated eligibility for this classification.

**ORDER:** The motion to reopen is dismissed.

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First Step of Reviewing Evidence, <https://www.uscis.gov/policy-manual/volume-6-part-f-chapter-2> (noting that evidence of experience "shall" consist of letters from employers.)

<sup>14</sup> As discussed above, the record is sufficient to establish that the Petitioner taught this course.

<sup>15</sup> See 6 USCIS Policy Manual F.2(B)(2), Appendix: Extraordinary Ability Petitions – First Step of Reviewing Evidence, <https://www.uscis.gov/policy-manual/volume-6-part-f-chapter-2> (noting that evidence of experience "shall" consist of letters from employers.)

<sup>16</sup> *Id.*, (noting that the organization or establishment must be recognized as having a distinguished reputation.)