



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

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

In Re: 23173147

Date: DEC. 19, 2022

Appeal of Nebraska Service Center Decision

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

The Petitioner, an embroiderer in the field of [REDACTED] embroidery, 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 Nebraska Service Center denied the petition, concluding that the Petitioner has not established that he meets at least three of the ten regulatory criteria. On appeal, the Petitioner submits a brief and contends that he meets eight out of ten criteria and has sustained the required acclaim and has risen to the very top of his field.

The Administrative Appeals Office reviews the questions in this matter *de novo*. *See Matter of Christo's Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). The petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *See* Section 291 of the Act; *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010). 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 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 is an embroiderer in the field of [redacted] embroidery. The Petitioner has not indicated that he received a major, internationally recognized award. Therefore, he must satisfy at least three of the ten alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)–(x). The Petitioner claims to have satisfied eight of these criteria, which will be discussed below.

The Director concluded that the Petitioner met only two criteria, relating to the scholarly articles and display criteria. On appeal, the Petitioner maintains that he meets six other criteria, relating to the lesser recognized prizes or awards, membership, published materials, judging, original contributions, and leading or critical role criteria. Upon review of the record, we agree with the Director’s determination regarding the display criterion but do not agree with the Director’s determination regarding the scholarly articles criterion. We have reviewed all of the evidence in the record and conclude that it does not support a finding that the Petitioner satisfies the requirements of at least three criteria.

*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 Director determined that the Petitioner did not establish eligibility for this criterion. We agree with the Director’s determination. A review of the record of proceeding does not reflect that the Petitioner submitted sufficient documentary evidence establishing that he meets the plain language of the regulation at 8 C.F.R. § 204.5(h)(3)(i) for the reasons outlined below.

The Petitioner claims that he meets this criterion based on the receipt of: (1) UNESCO Award of Excellence for Handicraft Products in 2012; (2) The Best Artisan Award of [redacted] (Initiative) in 2012; (3) The Best Artisan of the Year Award of [redacted] (Initiative) in 2011; and (4) The People’s Embroidery Award in 2018.

The Petitioner submitted a certificate issued as “the participant of the project - Quality Mark of craftsmanship production in Central Asia” by UNESCO in 2012. The Petitioner also submitted information about UNESCO Award of Excellence in 2012 from the UNESCO website, which indicates that the UNESCO Award of Excellence was awarded to 188 handicraft products out of 407 entries by artisans from Iran, Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, and Uzbekistan. The website also indicates that the Award of Excellence program aims to ensure the continuation of traditional knowledge and skills and the preservation of cultural diversity in the region.

The Petitioner submitted diplomas of “The Best Artisan at [redacted] Regional Level of [redacted] (Initiative) – 2012 Contest” and “The Best Artisan the Year at [redacted] Municipal Level of [redacted] (Initiative) – 2011 Contest” issued to him by the President of the [redacted]. The Petitioner also submitted a letter from [redacted] Chairman of the Board of the [redacted] Chamber of Commerce and Industry in [redacted] Region, which states that the criteria for selecting winners are the participant’s (1) contribution to his or her sphere in the form of original goods and services, (2) participation in international exhibitions and expo, and (3) providing jobs.

The Petitioner submitted a diploma of “The People’s Embroidery 2018 - The Best Embroidery Creator” by the State Committee for Tourism Development of the [redacted] and [redacted] Regional Headquarters of [redacted]. The Petitioner also submitted a letter from [redacted] the Head of [redacted] in [redacted] Region, which states that the People’s Embroidery 2018 contest is open only to members of [redacted].

On appeal, the Petitioner submits a brief, contending that the awards are given for excellence in the field of endeavor and that they are internationally recognized awards for excellence in the field of endeavor. However, the evidence does not establish that these awards are given for excellence in the field of endeavor. The 2012 UNESCO Award of Excellence was given to 188 handicrafts out of 407 entries to ensure the continuation of traditional knowledge and skills and the preservation of cultural diversity in the region. In addition, the record does not contain national or international media coverage or other sufficient evidence demonstrating that the UNESCO award is nationally or internationally recognized in the field of endeavor. With respect to the [redacted] award, participants must show that they contributed original goods and services, that they participated in international exhibitions and exports, and that they provided jobs. This selection criteria do not establish that the [redacted] award is given to recognize excellence in the field of endeavor. The People’s Embroidery 2018 contest was open only to members of [redacted]. Since this award is limited to members of the association and participants of the contest in 2018, the record does not reflect that this People’s Embroidery award is nationally or internationally recognized award for excellence in the field of endeavor.

Submitting evidence of the Petitioner’s receipt of awards is insufficient to meet the plain language of the regulation at 8 C.F.R. § 204.5(h)(3)(i) without documentary evidence reflecting that the prize or award is nationally or internationally recognized for excellence in the field of endeavor. Accordingly, the Petitioner does not meet this criterion.

*Documentation of the alien'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).

The Director determined that the Petitioner did not establish eligibility for this criterion. We agree with the Director's determination. A review of the record of proceeding does not reflect that the Petitioner submitted sufficient documentary evidence establishing that he meets the plain language of the regulation at 8 C.F.R. § 204.5(h)(3)(ii) for the reasons outlined below.

The Petitioner claims that he meets this criterion based upon his membership in the [redacted] [redacted] of Artisans, Craftsmen, and Folk Artists of the [redacted]. The record includes a membership certificate and letters from [redacted], the Head of [redacted] in [redacted] Region. The letters state that the association is open only to "highly skilled masters who are among the few on top of their fields and requires outstanding achievements of its members, as judged by nationally or internationally recognized experts in the respective field of folk art." The letters provide that the Petitioner's membership was recommended by [redacted] and [redacted]. The record contains resumes for [redacted] and [redacted].

While the letters from [redacted] contain language that mirrors the regulation, neither the author nor the Petitioner has pointed to sufficient evidence in the record that supports the claim that the organization requires outstanding achievements of its members, as judged by recognized national or international experts. Specifically, the record lacks the entity's constitution, bylaws, or other official documents, detailing its membership selection process and criteria. Without additional evidence that accurately and credibly explains the association's membership requirements or selection process, conclusory statements are insufficient to demonstrate that the Petitioner meets this criterion. *See 1756, Inc. v. United States Att'y Gen.*, 745 F. Supp. 9, 17 (D.D.C. 1990) (noting that we need not accept primarily conclusory statements). On appeal, instead of submitting additional evidence to corroborate his claims, the Petitioner submits a brief, repeating that the association requires outstanding achievements of its members, as judged by nationally or internationally recognized experts.

Moreover, although the record includes resumes for [redacted] and [redacted] the individuals who [redacted] asserts, recommended the Petitioner for membership in the [redacted] [redacted] the documentation is insufficient to show that they qualify as national or international experts in the field. [redacted] resume indicates he was the head of two art museums and was a professor of museology and art history in [redacted] and that his "scholarly articles and brochures" include two works on [redacted] embroidery. [redacted] resume indicates she teaches tour guides in [redacted] and is a member of the organizing committee of the [redacted] Festival. The resumes are not corroborated and insufficient to confirm that the individuals are qualifying experts in the field. Similarly, although [redacted] claims that [redacted] and [redacted] are nationally recognized experts, he has not explained the basis of his knowledge or offered sufficient evidence in support of his statement. Finally, even assuming the submitted evidence demonstrated that [redacted] and [redacted] are experts in the field, comparing them to other members of the association is insufficient to meet this criterion. While the individual members of the association may be highly qualified, the record does not demonstrate that membership in [redacted] requires outstanding achievements, as judged by recognized national or international experts.

For the reasons stated above, the Petitioner does not meet this criterion.

*Published material about the alien in professional or major trade publications or other major media, relating to the alien'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).*

The Director determined that the Petitioner did not establish eligibility for this criterion. We agree with the Director's determination. A review of the record of proceeding does not reflect that the Petitioner submitted sufficient documentary evidence establishing that he meets the plain language of the regulation at 8 C.F.R. § 204.5(h)(3)(iii) for the reasons outlined below.

The Petitioner submitted an article he wrote about his journey as a [redacted] embroiderer, which was published in the magazine *Tasvir*. The plain language of the regulation at 8 C.F.R. § 204.5(h)(3)(iii) requires that the published material be "about" the Petitioner relating to his work in the field for which classification is sought. Articles authored by the Petitioner are not articles about the Petitioner relating to his work. The Petitioner also submitted an article about [redacted] embroidery in America and the Petitioner as a [redacted] embroiderer residing in the United States, which was published in the newspaper *Our Home Minnesota*. The Petitioner also submitted an article about 2018 [redacted] Embroidery Competition in [redacted] which was published in the magazine *Zor Tasvir Plus*. This article in *Zor Tasvir Plus* briefly mentions the Petitioner, a young embroiderer from [redacted] as the first-place winner at the competition. Although the Petitioner is mentioned in the article, this article is not about the Petitioner relating to his work, but about the competition.

The Petitioner submitted one published article about himself as a [redacted] embroiderer relating to his work but did not demonstrate that *Our Home Minnesota* as well as any of the other publications, *Tasvir* and *Zor Tasvir Plus*, are major media. On appeal, the Petitioner submits a brief, contending that the submitted articles were published in major media in [redacted]. The record contains information about magazine *Tasvir* from the [redacted] website, which indicates that the circulation of the magazine is 40,000 copies. The record also contains a letter from the Chief Editor of the newspaper *Our Home Minnesota*, which states that the circulation of the newspaper is 4,000 printed numbers. The Petitioner has not demonstrated that based on the circulation data, these publications qualify as major media.

For the reasons stated above, the Petitioner does not meet this criterion.

*Evidence of the alien's participation, either individually or on a panel, as a judge of the work of others in the same or an allied field of specification for which classification is sought. 8 C.F.R. § 204.5(h)(3)(iv).*

The Director determined that the Petitioner did not establish eligibility for this criterion. We agree with the Director's determination. A review of the record of proceeding does not reflect that the Petitioner submitted sufficient documentary evidence establishing that he meets the plain language of the regulation at 8 C.F.R. § 204.5(h)(3)(iv) for the reasons outlined below.

The record includes a letter from [redacted] the Head of [redacted] in [redacted] Region, which states that the association thanks the member of the association, the Petitioner, for participating at its 2011 [redacted] exhibition fair. It notes that the Petitioner has participated in national and international exhibitions many times with his artistic products. However, the letter does not assert or establish that the Petitioner participated as “a judge” of the work of others in the field.

The Petitioner also submitted a letter from [redacted] the Head of [redacted] in [redacted] Region, which states that the association thanks the Petitioner for “his help in determining craftsmen, artisans and painters, who were invited” to its 2014 [redacted] exhibition. This letter does not state in what manner the Petitioner provided help in determining what artists were invited to the exhibition. This letter does not establish that the Petitioner participated as “a judge” of the work of others in the field. The phrase “a judge” implies a formal designation in a judging capacity, either on a panel or individually as specified at 8 C.F.R. § 204.5(h)(3)(iv). There is no evidence demonstrating that the Petitioner actually judged the artwork and made final selections for the exhibition, rather than, for example, merely assisting with general administrative functions of the exhibition.

Moreover, there is no documentary evidence showing the specific exhibitions judged by the Petitioner, the dates of his participation, and the names of the artists whose work he specifically selected. Merely submitting a statement asserting that the Petitioner judged the work of others without evidence showing who he judged and their field of specialization is insufficient to establish eligibility for this criterion. On appeal, instead of submitting contemporaneous documentary evidence of the Petitioner’s participation as a judge for the 2014 [redacted] exhibition sponsored by [redacted] the Petitioner submits a brief, repeating that the Petitioner served as a judge of the work of others at major exhibitions and showcases. There is no documentary evidence showing the Petitioner’s specific assessments and the names of the artists whose work he evaluated.

For the reasons stated above, the Petitioner does not meet this 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).

The Director determined that the Petitioner did not establish eligibility for this criterion. We agree with the Director’s determination. A review of the record of proceeding does not reflect that the Petitioner submitted sufficient documentary evidence establishing that he meets the plain language of the regulation at 8 C.F.R. § 204.5(h)(3)(v) for the reasons outlined below.

The Petitioner submitted letters from [redacted] a K-12 art teacher, and [redacted] a fine artist and gallery coordinator. [redacted] and [redacted] state that they are familiar with the Petitioner’s work as an “accomplished [redacted] embroiderer” and that the Petitioner has “made [a] contribution of major significance to this field by virtue of his mastery of [redacted] embroidery techniques and by adaptation of these techniques to contemporary materials and tastes.” In addition, they claim that the Petitioner’s “use of the [redacted] technique as well as his ability to combine various [redacted] styles in a single piece constitute a contribution of major significance in the field of [redacted] embroidery.” [redacted] also states that the Petitioner displayed his artwork at different art fairs in Minnesota and in other states.

The Petitioner also submitted a letter from [redacted] a K-12 art teacher, which states that the Petitioner's contributions "to the art of embroidery, decorative art, and cultural traditions of [redacted] are of major importance as they have and will continue to influence the work of other artists."

On appeal, the Petitioner submits a brief, contending that expert testimonials from leading experts in the Petitioner's field of endeavor demonstrate that the Petitioner's work is original and that he has made contributions of major significance to his field of endeavor. To satisfy this criterion, the Petitioner must establish that not only has he made original contributions but that they have been of major significance in the field of [redacted] embroidery. Major significance in the field may be shown through evidence that his original methods or processes have been widely implemented throughout the field, have remarkably impacted or influenced the field, or have otherwise risen to a level of major significance in the field.

The evidence is insufficient to establish that the Petitioner has satisfied this criterion. While the reference letters discuss the Petitioner's work, noting in general that it is well-regarded and appreciated, they do not explain how his work has impacted the field in a major or significant way, consistent with a finding of "contributions of major significance." For example, the record does not demonstrate that the Petitioner's techniques have been widely used by others in the field. The documents in the record primarily contain attestations of the Petitioner's status in the field without providing specific examples of how his contributions rise to a level consistent with major significance. Letters that repeat the regulatory language but do not explain how an individual's contributions have already influenced the field significantly are insufficient to satisfy this criterion. *Kazarian v. USCIS*, 580 F.3d 1030, 1036 (9th Cir. 2009), *aff'd in part*, 596 F.3d 1115. Moreover, we need not accept primarily conclusory statements. *1756, Inc.*, 745 F. Supp. at 17.

For the reasons stated above, the Petitioner does not meet this criterion.

*Evidence of the alien's authorship of scholarly articles in the field, in professional or major trade publications or other major media.* 8 C.F.R. § 204.5(h)(3)(vi).

The Director determined that the Petitioner established eligibility for this criterion. A review of the record of proceeding, however, does not reflect that the Petitioner submitted sufficient documentary evidence establishing that he meets the plain language of the regulation at 8 C.F.R. § 204.5(h)(3)(vi) for the reasons outlined below.

The Petitioner claims that he meets this criterion based upon his articles about the history and importance of embroidery in [redacted] which was published in major [redacted] media, and a book titled [redacted] published in [redacted]. The record includes copies of several pages of the book [redacted] which lists the Petitioner as "developer." According to the letter from [redacted] [redacted] the Head of [redacted] Publishing House, the book [redacted] was published by the Petitioner, published in 350 copies, and distributed among regional libraries. The record also includes evidence that the Petitioner has authored three articles that were published in the newspaper [redacted] and the magazine *Education and Upbringing* and presented at the 2014 Scientific-Practical International Conference of the Academy of Sciences of the [redacted].

While the Petitioner might have authored written work, he has not shown that his pieces qualify as “scholarly articles,” as required under the criterion. As defined in the academic arena, scholarly articles report on original research, experimentation, or philosophical discourse, and often have footnotes, endnotes, or a bibliography, and may include graphs, charts, videos, or pictures as illustrations of the concepts expressed in the article.<sup>1</sup> For other fields, scholarly articles are written for learned persons in that field.<sup>2</sup> “Learned” is defined as “having or demonstrating profound knowledge or scholarship,” and learned persons include all persons having profound knowledge of a field.<sup>3</sup> Here, the Petitioner has not demonstrated that the book [redacted] and three articles, which are each between one and three pages in length, qualify as scholarly. There is no documentary evidence demonstrating that the Petitioner’s works were peer-reviewed, contain any references to sources, or were otherwise considered scholarly. Moreover, the record lacks evidence that other scholars have taken notice of the Petitioner’s work.

Furthermore, the Petitioner has not established that his work has been published in qualifying publications. The Petitioner submitted a letter from the Chief Editor of [redacted] stating that the circulation of [redacted] is 500 printed copies. The Petitioner also submitted a letter from the Chief Editor of *Education and Upbringing*, stating that the magazine *Education and Upbringing* is published in 4,000 copies monthly. Finally, the Petitioner submitted a letter from the Head of the Academy of Sciences, stating that its annual scientific international conference provides more than 100 scientific articles in different areas and that all articles of the conference were published in one collection, with a circulation of 1,000 printed copies. The Petitioner has not demonstrated that based on the circulation data, these publications qualify as major media. In addition, he has not presented adequate documentation confirming they constitute either professional or major trade publications.

For the reasons stated above, the Petitioner does not meet this criterion.

*Evidence of the display of the alien’s work in the field at artistic exhibitions or showcases.* 8 C.F.R. § 204.5(h)(3)(vii).

The Director determined that the Petitioner established eligibility for this criterion. A review of the record of proceeding reflects that the Petitioner submitted sufficient documentary evidence establishing that he meets the plain language of the regulation at 8 C.F.R. § 204.5(h)(3)(vii). Accordingly, the Petitioner meets this criterion.

*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).

The Director determined that the Petitioner did not establish eligibility for this criterion. We agree with the Director’s determination. A review of the record of proceeding does not reflect that the Petitioner submitted sufficient documentary evidence establishing that he meets the plain language of the regulation at 8 C.F.R. § 204.5(h)(3)(viii) for the reasons outlined below.

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<sup>1</sup> 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 AD11-14 9* (Dec. 22, 2010), <https://www.uscis.gov/sites/default/files/USCIS/Laws/Memoranda/i-140-evidence-pm-6002-005-1.pdf>.

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*



The Petitioner claims that he has performed as an expert embroiderer a leading or critical role for [ ] Gymnastics, an artistic and rhythmic gymnastics training facility in Minnesota. The Petitioner submitted a letter from [ ] the founder and Executive Director of [ ] Gymnastics, which states that the training facility needs talented masters who can create beautiful leotards for the girls on its artistic and rhythmic travel teams and that she is interested in engaging the Petitioner as a silk embroider based on his expertise in the field of traditional [ ] embroidery.

On appeal, the Petitioner submits a brief, repeating that [ ] Gymnastics has a distinguished reputation and that [ ] hired the Petitioner to complete embroideries on the leotards. However, the letter from [ ] does not explain how the Petitioner's role as an embroiderer for the leotards was leading or critical to [ ] Gymnastics as a whole. The Petitioner did not provide an organizational chart or other similar evidence to establish how his role fits within the overall hierarchy of the organization. The letter does not specify how the Petitioner as an embroiderer for the leotards contributed to the organization in a way that is significant to the organization's outcome as a gymnastics training facility or what role he played in the organization's activities as a gymnastics training facility.

Moreover, the Petitioner did not submit any independent, objective evidence demonstrating that [ ] Gymnastics has a distinguished reputation. The Petitioner did not submit, for example, documentary evidence distinguishing [ ] Gymnastics from other artistic and rhythmic gymnastics training facilities, so as to establish that it has a distinguished reputation as marked by eminence, distinction, or excellence.

For the reasons stated above, the Petitioner does not meet this criterion.

### 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 lesser 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 have reviewed the record in the aggregate and conclude 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. U.S. Citizenship and Immigration Services 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 recognition of his work is indicative of the required sustained national or international acclaim or demonstrates 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).

The Petitioner has not demonstrated eligibility as an individual of extraordinary ability.

**ORDER:** The appeal is dismissed.