



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

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

In Re: 20738529

Date: MAY 31, 2022

Appeal of Texas Service Center Decision

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

The Petitioner, a musical director, 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 Texas Service Center denied the petition, concluding that the Petitioner did not establish, as required, that he has a qualifying one-time achievement (a major, internationally recognized award) or that he, in the alternative, satisfies 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 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). We review the questions in this matter *de novo*. *See Matter of Christo's Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon *de novo* review, we will dismiss the appeal.

I. LAW

Section 203(b)(1)(A) of the Act makes immigrant visas available to individuals 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 record reflects that the Petitioner is a co-founder, musician, and musical director for the [redacted] group [redacted]. The evidence indicates that [redacted] which formed in 1987, regularly performs at restaurants, private and corporate parties, and special events in [redacted] and has made appearances on [redacted] television. In a letter submitted with his petition, the Petitioner stated his intent to work as a musical director for several [redacted] Florida-based projects focused on [redacted] music.

The Petitioner initially claimed that he received two major, internationally recognized awards, specifically two [redacted] awards, and therefore established that he has a qualifying one-time achievement. The Director determined that the Petitioner had not established that these awards are major, internationally recognized awards, and he does not pursue this claim on appeal. Because the Petitioner does not contest the Director’s conclusions regarding this issue, we consider it to be abandoned.¹ We will discuss the awards further in the context of lesser awards under 8 C.F.R. § 204.5(h)(3)(i).

A. Evidentiary Criteria

Because the Petitioner has not shown that he 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 claims to have satisfied six of these criteria, summarized below:

¹ *See Matter of R-A-M-*, 25 I&N Dec. 657, 658 n.2 (BIA 2012) (stating that when a filing party fails to appeal an issue addressed in an adverse decision, that issue is waived). *See also Sepulveda v. U.S. Att’y Gen.*, 401 F.3d 1226, 1228 n. 2 (11th Cir. 2005), citing *United States v. Cunningham*, 161 F.3d 1343, 1344 (11th Cir. 1998); *Hristov v. Roark*, No. 09–CV–27312011, 2011 WL 4711885 at *1, *9 (E.D.N.Y. Sept. 30, 2011) (plaintiff’s claims were abandoned as he failed to raise them on appeal to the AAO).

- (i), Lesser nationally or internationally recognized prizes or awards;
- (iii), Published material about the individual in professional or major media;
- (iv), Participation as a judge of the work of others;
- (vii), Display at artistic exhibitions or showcases;
- (viii), Leading or critical role for distinguished organizations or establishments; and
- (x), High salary or other significantly high remuneration for services.

The Director concluded that the Petitioner did not submit sufficient evidence to satisfy any of the six claimed criteria. On appeal, the Petitioner submits additional evidence related to several criteria, asserts that the Director failed to apply the preponderance of the evidence standard, and maintains that he meets at least three criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x) and is otherwise qualified for the benefit sought. We have reviewed all the evidence in the record and, for the reasons discussed below, conclude that it does not support a finding that the Petitioner satisfies the requirements of at least three criteria.

Documentation of the individual'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).

To fulfill this criterion, the Petitioner must demonstrate that he received the prizes or awards, and that they are nationally or internationally recognized for excellence in the field of endeavor. Relevant considerations regarding whether the basis for granting the prizes or awards was excellence in the field include, but are not limited to, the criteria used to grant the prizes or awards, the national or international significance of the prizes or awards in the field, and the number of awardees or prize recipients as well as any limitations on competitors.²

The Petitioner claims to satisfy this criterion based on the following awards:

- [redacted] award, Musical Director of the Year (2016)
- [redacted] award, Musical Producer of the Year (2017)

The inscriptions on the Petitioner's award plaques indicate that he received the 2016 award for his 30 years of experience and success directing the group [redacted] while the 2017 award recognizes his achievement of 5,000 performances with the group.

The Petitioner's initial evidence included a letter from [redacted] the president of the [redacted] of [redacted] Foundation, addressed to the Petitioner, which provides background regarding the organization and award and indicates that the Petitioner would be receiving the 2016 Musical Director of the Year award at an event held at [redacted] in [redacted] on November 3, 2016. [redacted] indicates that the award was established by a journalist in 1955, that it has been issued since that time "in the state of [redacted] throughout the national and international territory such as Colombia, Mexico, USA, Panama, Puerto Rico, Europe," and that it recognizes those in the fields of radio, television,

² See 6 USCIS Policy Manual F.2 appendix, <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).

cinema, theater, advertising, sport, commercial, business, medical and institutional, among others. The letter mentions that the award “operates non-profit, it also has no sponsorship from any government entity or private company and therefore its credibility and prestige are endorsed by our criteria and the ethics of each person who make up the board.” [redacted] also states that the [redacted] is the only prize [redacted] that has its certificate “endorsed by the International Federation of Awards” which makes it “the most credible award at a regional, national and international level.” The letter indicates that winners are chosen “according to the results of the surveys and studies carried out by our board of directors.” However, the Petitioner did not include any additional evidence regarding the nomination and selection process for the award to support a claim that it is an award for “excellence” in the field of music or explain or document the significance of an endorsement from the “International Federation of Awards.”

The Petitioner indicated that he was providing articles from major media publications demonstrating that the [redacted] awards are “nationally and internationally distinguished.” This evidence included information about the [redacted] which does not appear to be the same as the [redacted] prize. Information about the [redacted] identifies its founder as [redacted]. The record indicates that the founder of the [redacted] of [redacted] Foundation was [redacted]. Furthermore, the record provides different years for the founding of the two organizations. The submitted evidence, therefore, appears to relate to two different organizations and two different prizes. An article published by [redacted] newspaper [redacted] describes the [redacted] as “the only [redacted] award that belongs to the [redacted], which groups the awards: Billboard, ‘Lo Nuestro,’ ‘Grammy Latinos’ and Golden Globe, among others.” The evidence did not include documentation of any media coverage of the award ceremonies at which the Petitioner received his [redacted] awards or any media attention surrounding his receipt of these awards.

In a request for evidence (RFE), the Director advised the Petitioner that the initial evidence did not establish that his [redacted] awards are nationally or internationally recognized in his field, and noted that the record did not include information about selection criteria for the award or information regarding others competing for the same award. The Director requested additional evidence to establish the criteria used to grant the award, the significance of the award, the reputation of the organization granting it, evidence related to previous winners and their acclaim in the field, and public announcements regarding the awards issued by the granting organization.

The Petitioner’s response included a second letter from [redacted] who named other recipients of [redacted] musical director or musical producer of the year awards. The RFE response also included media articles about these individuals from online editions of the [redacted] newspapers [redacted] and [redacted] accompanied by circulation figures for these publications. The Petitioner emphasized that the submitted articles about these individuals mention that they are recipients of [redacted] awards and therefore demonstrate that the award receives national media attention.

Finally, the Petitioner provided an article from [redacted] announcing that the next [redacted] award ceremony would be held at the [redacted] of the [redacted] Hotel in [redacted] in December 2017. While the record indicates that the Petitioner received a [redacted] award in 2017, it does not reflect that he received it at the December 2017 ceremony in [redacted] mentioned in the media article. The submitted certificate indicates he was awarded as “Musical Producer of the Year” at a June 30, 2017 ceremony held at a museum in [redacted]. The Petitioner did not submit an

announcement of winners from the ceremonies at which he received his awards or otherwise establish that those ceremonies received media attention consistent with a nationally recognized entertainment industry award. Further, this evidence reflects that the [redacted] of [redacted] Foundation has multiple ceremonies in different cities on an annual basis, which suggests that at least some of its awards may be regional rather than national or international in scope.

In concluding that the Petitioner did not establish that he meets this criterion, the Director determined that there was insufficient evidence to establish that his [redacted] awards are nationally or internationally recognized awards in the field of music, noting that the record lacked documentation showing the criteria used to nominate and select recipients and therefore did not establish that recipients are awarded based on excellence in the field of endeavor. The Director acknowledged evidence that other award recipients received media coverage that mentioned the [redacted] award, but noted that rankings for [redacted] [redacted] and [redacted] were not sufficiently high to establish that these are major media publications in [redacted] or that the awards received widespread coverage.

On appeal, the Petitioner submits an additional letter from [redacted] who addresses the [redacted] foundation's process for selecting winners. He notes that the foundation evaluates "the nominations received by examining the performance, cultural and artistic contribution, years of professional career of the nominee among other aspects" and states that "after an evaluation by a group of experts in the field and based on verifiable selection methods, the decision to award the nominee is made." [redacted] clarifies that the [redacted] "is not a contest between participants across many categories," and states that the Petitioner received the award "because of his musical career of many years and the cultural contribution of his group [redacted]"

The limited evidence of the award's media coverage is insufficient to establish the level of national or international recognition associated with the Petitioner's [redacted] awards. The submitted evidence does not demonstrate, for example, that the award winners receive a level of media coverage associated with a nationally or internationally recognized award in the entertainment industry and does not include any media coverage of the specific ceremonies at which the Petitioner received his awards. Further, the evidence does not provide clear or consistent information regarding the number of award categories, the various levels of awards given, the criteria used to grant awards (and whether the award is for "excellence" in his field), or even whether all the awards are deemed national in scope, given evidence that there are regional award ceremonies held in different [redacted] cities in each calendar year. For example, in his initial letter, [redacted] stated that that [redacted] winners are selected "according to the results of the surveys and studies carried out by our board of directors." He later indicated that a "group of experts in the field" evaluates nominees, but did not identify who comprises this group, describe the nominating process, or explain what "verifiable selection methods" are used.

While the Petitioner submitted articles about other artists in his field that mention their receipt of the awards, two of the three articles focus on the current projects and overall career of the featured individuals rather than on the award. Notably, none of the media articles relating to this criterion mention the Petitioner or his receipt of the [redacted] award.

For these reasons, the Petitioner has not established that he meets 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 meet the requirements of this criterion, the Petitioner must satisfy multiple evidentiary requirements. First, the published material must be about the Petitioner and the contents must relate to the Petitioner's work in the field under which they seek classification as an immigrant. The published material must also appear in professional or major trade publications or other major media.³ The final requirement is that the Petitioner provide each published item's title, date, and author. The Petitioner must submit evidence satisfying all these elements to meet the plain language requirements of this criterion. For the reasons discussed below, we agree with the Director's determination that the Petitioner did not meet this criterion.

The Petitioner submitted two published articles for consideration. One article, titled [redacted] [redacted] was published in the print edition of *La Voz* on [redacted] 2017. This article is an interview with the Petitioner and is about him and his work in the field. The second article was published in the print edition of *Mi Diario* on [redacted] 2016, and is titled [redacted]. This article announces a casting opportunity for the [redacted] dance competition. It includes a photograph of the Petitioner, refers to him as a "renowned music director" and mentions his role on the qualifying jury for the show.⁴ To establish that these publications constitute major media, the Petitioner provided "traffic overview" statistics for their respective websites (*diariolavoz.net* and *midiarrio.com*) obtained from *SimilarWeb*. While this evidence includes information regarding the number of monthly visitors each website receives, the Petitioner did not include *SimilarWeb*'s rankings (or rankings from another source) showing how these online publications compare with others in [redacted]. Nor did the Petitioner explain the significance of the "traffic overview" statistics and how this information alone establishes that either publication qualifies as "major media."

Moreover, the articles the Petitioner provided were from the print editions of these publications and were not accompanied by evidence that the articles also appeared in the respective online editions. The record does not include any circulation data or rankings for *La Voz* or *Mi Diario* and therefore does not establish that either print publication constitutes "major media" in [redacted].⁵ Nor has the Petitioner claimed that either publication is a professional or major trade publication.

³ Evidence may include documentation such as print or online newspaper or magazine articles, popular and academic journal articles, books, textbooks, similar publications, or a transcript of professional or major audio or video coverage of the person and the person's work. *See 6 USCIS Policy Manual, supra*, at F.2 appendix.

⁴ We observe that the bylines on the original articles indicate that they were written by the same author. The Director determined that there appeared to be inconsistencies in the record concerning the articles and their English translations, in part questioning whether the same author wrote for both publications. The Petitioner provides additional evidence regarding the articles' author and his career in support of the appeal. We find no reason to doubt the credibility of the submitted articles.

⁵ *See 6 USCIS Policy Manual, supra*, at F.2 appendix (stating 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 and show the intended audience of the publication).

In addition to the two published articles, the Petitioner indicates that he meets this criterion because he was interviewed on several television programs that aired on [redacted] Network. In support of this claim, he submitted screenshots from YouTube and Facebook videos of his appearances on the programs [redacted] (2016 and 2017), [redacted] (2016), [redacted] (1999) and [redacted] (1999). He provided an article about the history of [redacted] from the network's website in support of his assertion that he was interviewed in a major medium.

This regulatory criterion requires "published material" in professional or major trade publications or other major media and "the title, date, and author of the material." Screenshots of video clips are not published material in professional or major trade publications or other major media consistent with the regulation at 8 C.F.R. § 204.5(h)(3)(iii). The Petitioner did not establish that the screenshots from YouTube or Facebook videos constitute published material about him relating to his work, nor did he provide transcripts of his appearances on any of these programs.

The Petitioner subsequently supplemented the record with letters from the producers of the programs [redacted] and [redacted] who confirmed his appearances with [redacted]. The producer of [redacted] states that the Petitioner was interviewed by one of the show's presenters about the group's upcoming performances and about its [redacted] music. The producer of children's show [redacted] stated that a member of the young cast interviewed the Petitioner about the beginnings of his musical career in [redacted] and asked him to demonstrate how the different instruments are played. On appeal, the Petitioner submits additional evidence of ratings for these programs in support of his claim that they constitute "major media" in [redacted]. However, even if we determined that one or both television programs were deemed major media at the time of airing, the Petitioner did not meet the evidentiary requirements. As noted, audio and video coverage of an individual's work should be accompanied by a transcript in order for USCIS to determine whether such coverage meets all requirements for this criterion. The producers' brief summaries of the Petitioner's appearances on [redacted] and [redacted] are not equivalent to transcripts of those appearances.

For the reasons discussed, the Petitioner has not submitted evidence demonstrating that he meets this criterion.

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

The Petitioner indicates that he meets this criterion based on his service as a member of the "qualifying jury" for a dance-themed competitive reality show called [redacted]. He submitted two letters from the show's producers who indicate his involvement in the first season of the show and membership on the qualifying jury for a televised event held on [redacted] 2016 at a venue in [redacted]. The producers note that the Petitioner provided "excellent advice and opinions to the ten new artists and groups that qualified for this gala." As noted above, the Petitioner's evidence also included an article titled [redacted] which was published in the [redacted] 2016 print edition of the publication *Mi Diario*. The article indicates that casting to select [redacted]'s participants would be held on [redacted] 2016 at the [redacted] nightclub, and that the show would soon air "on a television channel." The Petitioner is mentioned in the article as a member of the "qualifying jury" panel.

Finally, the Petitioner submitted an online article about [redacted] published by [redacted] on [redacted] 2016.⁶ The article indicates that the new television show would be holding a “second casting” at the [redacted] on [redacted] 2016, and that the show would later be televised on [redacted] Network.

The Director determined that the Petitioner submitted insufficient evidence of his participation as a judge for the show, noting that the submitted articles contained inconsistent dates and that the record “lacked independent documentary evidence that [redacted] actually took place.”

On appeal, the Petitioner seeks to clarify the relevant dates, noting that he served as a judge at the casting stage for [redacted] in [redacted] 2016 and for the show itself in [redacted] 2016. He does not address the submitted article indicating that the casting of the show occurred in [redacted] 2016, rather than [redacted] 2016. Further, while the article from [redacted] indicated that casting would occur in [redacted] 2016 and the show would air on [redacted] Network, the later article in *Mi Diario* only indicated that [redacted] would be “on a television channel.” The letters from the producers do not mention where it was ultimately broadcast. Due to these ambiguities, we agree with the Director’s determination that the record lacks sufficient independent evidence that the competition ultimately took place and was televised as planned.

Therefore, while the record demonstrates that the Petitioner was *invited* to participate on a jury panel and to evaluate the work of others in an allied field, it does not sufficiently corroborate his participation as a judge in [redacted] because it lacks independent evidence that the competition was completed and broadcast as planned. The Petitioner does not address this deficiency on appeal. There is also a lack of corroborated information regarding the nature of the jury’s role in evaluating the contestants. The show’s producers stated that judges provided “tools and excellent advice and opinions” to participants but did not mention that the judging panel was responsible for scoring contestants or otherwise selecting the winner.

For the foregoing reasons, we conclude that the Petitioner did not establish he meets the criterion at 8 C.F.R. § 204.5(h)(3)(iv).

Evidence of the display of the individual’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 did not meet the criterion relating to the display of his work at artistic exhibitions or showcases at 8 C.F.R. § 204.5(h)(3)(vi). This determination was based, in part, on a finding that the criterion is intended solely for visual artists, not performing artists. We disagree with the Director’s interpretation that the plain language of the regulation renders this criterion applicable only to visual artists. The regulation requires only that the work displayed be a given petitioner’s own work product and that the venues at which the individual’s work was displayed be artistic exhibitions or showcases. 8 C.F.R. § 204.5(h)(3)(vii).⁷ While not all the Petitioner’s

⁶ The submitted English translation of the article indicates that it was published on [redacted] 2017; however, the date of publication on the original Spanish-language article is [redacted] 2016.

⁷ See also *USCIS Policy Manual, supra*, at F.2 appendix (stating that officers should use the common dictionary definitions of “exhibition” and “showcase” in evaluating this criterion).

performances with [redacted] can be considered “artistic exhibitions or showcases,” the record contains evidence that they have performed at cultural events intended to showcase [redacted] of music and which satisfy the plain language of this criterion. Accordingly, we withdraw the Director’s determination that the criterion was not met.

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 initially submitted two invoices in support of his claim that he meets this criterion:

- July 2017 invoice in the amount of [redacted] 850,000, indicating that the Petitioner billed [redacted] for a [redacted] held at the [redacted]
- June 2017 invoice in the amount of [redacted] 700,000, indicating that he billed [redacted] Steak House CA for two “presentations.”

The Petitioner provided currency conversions calculated in August 2017 and indicated that he was paid over \$150,000 (USD) in two months based on these invoices alone. As a basis for comparison, the Petitioner provided salary information for “Music Directors and Composers” from two U.S. Department of Labor resources indicating a mean annual wage of \$60,630 and a high (90th percentile) wage of \$106,700 for this occupation in 2016.

In the RFE, the Director advised the Petitioner that there was insufficient evidence to establish that the invoices provide evidence of wages paid to and received by him for his work as a music director. The Director advised the Petitioner of additional evidence he could provide to document his annual salary and to establish that it is high compared to others in the field. In response, the Petitioner re-submitted the invoices and provided a receipt indicating that, in July 2018, [redacted] paid the Petitioner the amount indicated on the July 2017 invoice. He also submitted additional wage data for music directors working in the United States from Payscale.com. In addition, the RFE response included a letter from a representative of [redacted] who confirms that the company has contracted the Petitioner and [redacted] to provide [redacted] shows with live musicians and dancers at private, corporate, social, and cultural events for many years.

The Director determined that the Petitioner did not satisfy this criterion, emphasizing that the submitted invoices alone do not provide evidence the Petitioner’s actual salary or remuneration and they were not accompanied by evidence that the clients honored them. In this regard, we observe that, although the invoices identify the Petitioner as the individual billing for performances, the letter from [redacted] indicates that it typically contracts for performances by [redacted] and therefore it is reasonable to believe that the total amount billed for a given show would include payments to other members of the group and other expenses related to the performance. Without additional evidence, the record does not establish that any payments he received for [redacted]’s services solely encompassed his own individual fee for services. The Director also emphasized that the record lacked any comparative evidence of what constitutes a high salary for a music director or producer providing similar services in [redacted]

On appeal, the Petitioner asserts that the Director overlooked evidence demonstrating that [redacted] paid him the amount billed on the July 2017 invoice. The Petitioner also references the

previously submitted evidence of salaries for musical directors in the United States and asserts that the evidence demonstrates that he earns an “exceptionally high salary” in comparison.

However, the Petitioner does not address the Director’s determination that he did not provide a sufficient basis for comparison to show that his earnings are high compared to others performing similar work in [redacted]. Persons working in different countries should be evaluated based on the wage statistics or comparable evidence in that country, 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.⁸

Further, while the Petitioner has documented the payment he received for a single event, that payment (received from the client in 2018) post-dated the filing of the petition. The record lacks evidence, such as tax or other financial documents, showing his total earnings in any previous year. Further, as noted above, the record does not establish that the fee charged for his group’s performance at a given event solely encompasses remuneration for the Petitioner’s own individual services.

For the reasons discussed, the record is insufficient to demonstrate the amount of the Petitioner’s actual income or remuneration, and therefore it cannot establish his eligibility under this criterion. Without a proper basis for comparison and evidence showing his comprehensive earnings during a sustained period predating the filing of the petition, we cannot conclude that the Petitioner has commanded a high salary or other significantly high remuneration for services in relation to others in his field.

B. Summary and Reserved Issue

The Petitioner has not submitted the required initial evidence of either a one-time achievement or documents demonstrating that he meets at least three of the ten criteria. Although he claims eligibility under one additional criterion on appeal, relating to leading or critical roles at 8 C.F.R. § 204.5(h)(3)(viii), we need not reach this additional ground. As the Petitioner cannot fulfill the initial evidentiary requirement of three criteria under 8 C.F.R. § 204.5(h)(3), we reserve this issue.⁹

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 his work is indicative of the required sustained national or

⁸ See 6 USCIS Policy Manual, *supra*, at F.2 appendix.

⁹ See *INS v. Bagambada*, 429 U.S. 24, 25-26 (1976) (stating that, like courts, federal agencies are not generally required to make findings and decisions unnecessary to the results they reach).

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 that he 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 his 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.