



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

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

In Re: 24829454

Date: FEB. 28, 2023

Appeal of Texas Service Center Decision

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

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

The Director of the Texas Service Center denied the petition, concluding that the record did not establish that the Petitioner met the initial evidence requirements for the classification by establishing the Petitioner's receipt of a major, internationally recognized award, or by meeting three of the ten evidentiary criteria at 8 C.F.R. § 204.5(h)(3). The matter is now before us on appeal. 8 C.F.R. § 103.3.

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). We review the questions in this matter de novo. *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

An individual is eligible for the extraordinary ability classification if they have extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and their achievements have been recognized in the field through extensive documentation; they seek to enter the United States to continue work in the area of extraordinary ability; and their entry into the United States will substantially benefit prospectively the United States. Section 203(b)(1)(A) of the Act.

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 may demonstrate international recognition of their achievements in the field through a one-time achievement (that is, a major, internationally recognized award). Absent such an achievement, a petitioner must provide

sufficient qualifying documentation demonstrating that they meet at least three of the ten criteria listed at 8 C.F.R. § 204.5(h)(3)(i)-(x).

Where a petitioner meets these initial evidence requirements, we then consider the totality of the material provided in a final merits determination and assess whether the record shows sustained national or international acclaim and demonstrates that the individual is among the small percentage at the very top of the field of endeavor. *See Kazarian v. USCIS*, 596 F.3d 1115 (9th Cir. 2010) (discussing a two-part review where the documentation is first counted and then, if fulfilling the required number of criteria, considered in the context of a final merits determination); *see also Visinscaia v. Beers*, 4 F. Supp. 3d 126, 131-32 (D.D.C. 2013); *Rijal v. USCIS*, 772 F. Supp. 2d 1339 (W.D. Wash. 2011).

II. ANALYSIS

The Petitioner is a professional Saddlebred Horse trainer who has participated in show horse competitions in South Africa and the United States. The Petitioner currently operates a horse training and sales facility in [REDACTED] Kentucky. She intends to continue to train and show horses competitively in the United States.

The record shows that the Petitioner submitted evidence to demonstrate both that she received a major, internationally recognized award, and that she satisfied at least three of the alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x). The Director determined that, while the Petitioner did not establish her receipt of a major, internationally recognized award, she met one of the five criteria she claimed to have satisfied: participation as a judge of others' work in her field of endeavor.¹ The Director concluded that the Petitioner did not establish that she met criteria at 8 C.F.R. § 204.5(h)(3)(i), (ii), (iii), and (v). On appeal, the Petitioner asserts that she meets these additional criteria, as well as the requirements pertaining to receipt of a major internationally recognized award; she states that U.S. Citizenship and Immigration Services (USCIS) misapplied the law and misinterpreted the facts of the case.

As more fully discussed below, we agree, in part, with the Director's analysis of the evidence. Where we disagree we have provided an explanation of our determination. We conclude that the evidence of record does not satisfy the requirements of 8 C.F.R. § 204.5(h)(3); therefore, we will dismiss the Petitioner's appeal.

A. One-time Achievement

The regulation at 8 C.F.R. § 204.5(h)(3) states that a petitioner may submit evidence of a one-time achievement that is a major, internationally recognized award. The Director noted in his decision that the record should demonstrate that the award is internationally recognized and generally regarded as a major award in the field. In response to a request for evidence (RFE), the Petitioner cited her first-place awards at the World's Championship Horse Show in [REDACTED] Kentucky, in 2019, 2020, and 2021, as well as her receipt of four [REDACTED] Championship titles. The record includes documentation of these awards and information about the competition's history from the event's

¹ *See* 8 C.F.R. § 204.5(h)(3)(iv).

website. The Director's decision implies some doubt as to whether the Petitioner won the awards she claims to have won. The Director noted that the Petitioner's name does not appear on certain trophies and he concluded that lists showing the Petitioner's placement results "are not official documents," declining to use information provided to assess the veracity of the placement results through subscription-only access to a website, [REDACTED]com. On appeal, the Petitioner asserts that the absence of her name from the trophies should not be conclusive evidence that she did not win the titles she claims to have won; she refers to documentation in the form of letters of endorsement, certificates, and competition records as corroborating evidence of her receipt of the awards,

Upon review of the record, the Petitioner has established that she received the awards; the record includes letters of endorsement that reference the Petitioner winning several of the awards listed, and the Petitioner verified her wins through online sources. As to whether the awards are regarded as major, internationally recognized achievements, the Director determined that there was no objective evidence to assess the scope of the awards' recognition; the record did not include evidence that the competition for the awards is recognized by the general public, that competition results are widely reported in international media, or that the awards garner attention comparable to other major, globally recognized awards. On appeal, the Petitioner quotes from a Wikipedia page for the [REDACTED] [REDACTED] which promotes the event as "the world's richest and most prestigious horse show." The Petitioner also asserts,

[T]he very phrase 'World Champion' denotes that the achievement is a major achievement of international renown—the very top, in fact, in Petitioner's field of expertise of Saddlebred horse training and competing in the global equine industry. These World Championship Titles have garnered Petitioner international attention, renown, and permanence in her field of expertise.

The record, however, does not include documentation to corroborate this assertion. While letters of endorsement speak to the Petitioner's accomplishments as a Saddlebred Horse trainer and competitor, neither the letters nor other documentation in the record provide evidence showing that the World Championship Horse Show grants an award or prize that is considered to be internationally recognized. Because the record does not provide evidence to establish that the Petitioner's awards constitute a one-time achievement of a caliber considered to be internationally recognized within the field, we conclude that the Petitioner has not established eligibility in accordance with 8 C.F.R. § 204.5(h)(3).

B. Evidentiary Criteria

In addition to evidence to establish that the Petitioner has received a major, internationally recognized award, the Petitioner submitted evidence to demonstrate her qualifications under four of the alternate criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x).

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).

In order to fulfill this criterion, the Petitioner must demonstrate that she received prizes or awards that are nationally or internationally recognized for excellence in her field of endeavor.² The Petitioner submitted evidence of numerous awards and show placements that she has received throughout her career, including photos of trophies, lists of competition results, information about horse show events in which she competed, evidence of relevant association memberships, and letters of endorsement. The Director determined that this evidence did not establish that the Petitioner met the requirements of this criterion. As described above, the Director dismissed lists showing the Petitioner's placement results and did not to give evidentiary weight to photos of trophies that do not depict the Petitioner's name. On appeal, the Petitioner reiterates that the letters of endorsement, certificates, and competition records serve to verify her achievements.

As noted above, the Petitioner has established her receipt of the claimed awards. While the trophies do not identify her by name, the competition results and letters of endorsement corroborate her claims of receiving the awards corresponding to the trophies. The placement results and awards are also corroborated by the letters of endorsement and by online sources. A separate portion of the Director's decision focused on the categorization of the Petitioner's field of expertise as encompassing her abilities as both a trainer and a competitor. The Director affirmed that the Petitioner must establish her extraordinary ability as either a trainer or a competitor and dismissed this claim of combined roles as an assertion from the Petitioner's counsel; the Director stated that the assertions of counsel do not constitute evidence³ and concluded that no evidence was submitted to establish that the terms are used interchangeably. On appeal, the Petitioner reasserts that her abilities training and showing horses competitively are interconnected and should not be viewed as separate occupations. We disagree with the Director's characterization of the Petitioner's occupation and field of expertise; the evidence identifies the Petitioner as a horse trainer and a competitor at shows in which she has received awards based on the performance of horses that she trained and presented. However, we agree with the Director's analysis of whether the record demonstrates that the Petitioner's awards are lesser nationally or internationally recognized prizes; the record does not include documentation to demonstrate on what scale the Petitioner's awards are recognized. The Petitioner has not satisfied the requirements for the criterion at 8 C.F.R. § 204.5(h)(3)(i).

Documentation of the individual'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).

To meet this criterion, the Petitioner must show that membership in the associations is based on the individual being judged by recognized national or international experts as having attained outstanding achievements in the field for which classification is sought.⁴ The record includes evidence that the Petitioner has been a member of several equestrian associations in South Africa and currently is a

² 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 awards or prizes; the national or international significance of the awards or prizes in the field; and the number of awardees or prize recipients, as well as any limitations on competitors. See generally 6 USCIS Policy Manual F.2 (Appendix), <https://www.uscis.gov/policy-manual/volume-6-part-f-chapter-2>.

³ See *Matter of Obaigbena*, 19 I&N Dec. 533, 534 (BIA 1988); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980).

⁴ See generally 6 USCIS Policy Manual F.2 (Appendix), <https://www.uscis.gov/policy-manual/volume-6-part-f-chapter-2>.

member of the following organizations in the United States: the aforementioned [redacted]

[redacted] While additional documentation concerning admittance to the South African associations was not included in the record, bylaws for the latter three groups provide requirements for membership such as age, length of experience, participation as a competitor, employment in the field of equestrianism, character, and payment of dues. The Director determined that membership in these associations did not appear to require outstanding achievements as assessed by experts in the field. On appeal, the Petitioner reiterates that “these associations are limited to professionals who derive their income from the equestrian field, and some, such as [redacted] further limit their membership to those they find acceptable both personally and professionally.” While the record demonstrates that the Petitioner had to meet certain requirements to become a member of these associations, the record does not include documentation showing that membership in these associations requires the attainment of any specific achievements judged as outstanding by experts in the field. The Petitioner has not established that she meets the requirements of the criterion at 8 C.F.R. § 204.5(h)(3)(ii).

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 this criterion, the published material must be about the Petitioner and related to her specific work in her field of endeavor. The Petitioner initially submitted an article from *Farmer's Weekly* that featured the work of her mother, which the Director concluded was not about the Petitioner. The Petitioner also included articles that consist of her photo and reference her participation or placement at shows during her childhood in South Africa. The Director noted that these brief articles appear to have been from regional publications and do not identify authors, determining that the Petitioner did not submit any qualifying material from professional or major trade publications or other major media. We note that the record also contains pages that include photos of the Petitioner and other individuals presenting at horse shows; these appear to be promotional materials from [redacted] Stables in Kentucky and other businesses in the region, which also do not qualify as material about the Petitioner from major publications. On appeal, the Petitioner states that these and the *Farmer's Weekly* article are “relevant to Petitioner's work and competition in the field of endeavor in that the expertise and skills gained during her youth, addressed in the article(s), has [sic] enabled her to achieve the superior status in the industry that she has today.” The Petitioner does not acknowledge the lack of substance or absence of authors for these articles that note her early participation in horse shows. While the articles may demonstrate the Petitioner's history of participation in the field, the record does not demonstrate that the articles qualify for the requirements of this criterion; the record does not include documentation from professional or major trade publications or other major media concerning the Petitioner and her work in the field. The Petitioner has not established that she meets the requirements of the criterion at 8 C.F.R. § 204.5(h)(3)(iii).

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).

To meet this criterion, the record must establish that the Petitioner has received a salary or other significantly high remuneration for services in relation to other individuals working in the field of

endeavor. The record includes salary information for animal and horse trainers from the Bureau of Labor Statistics' O*Net and Zippia.com, respectively, as well as tax documents and internal financial information from [redacted]. The Director determined that, because the record does not include documentation showing the Petitioner's individual earnings, she has not established her eligibility under this criterion. A draft⁵ copy of page one of the 2021 partnership tax return for [redacted] shows gross receipts or sales at \$667,589 and ordinary business income totaling \$254,686, which the Petitioner asserted in response to the RFE and asserts again on appeal is a sum of "more than four times the prevailing wage in that field." The Petitioner states that, because she owns and runs the business, "the company's earnings are directly related to [her] remuneration." However, the Petitioner is not the sole member of [redacted] instead, the record indicates that she owns only 50% of the membership interests of the limited liability company (LLC). The Petitioner did not provide the remaining pages of the LLC's 2021 partnership tax return, including all schedules, to evince her 50% share of its income, deductions, credits, and other items. Further, the tax return does not indicate that the LLC paid her any salaries, wages, or guaranteed payments to partners. Additionally, the record does not contain the Petitioner's personal tax returns or wage statements. Thus, we are unable to determine her salary and other remuneration for services, and how such remuneration relates to other individuals working in the field, based on the insufficient documentation in the record.

The record also includes evaluations of the company from the company's bookkeeper and from the Petitioner herself. The bookkeeper estimates that, in combination with the Petitioner's skillset and the fact that the business operates in both the training and sale of horses, the business has a "25–30% higher earning potential than other horse trainers in this area." The Petitioner's evaluation estimates the value of the business at \$386,000. These estimates are not supported by objective financial information for the Petitioner's business as it compares to other similar businesses, and the estimates do not provide specific insights into the Petitioner's salary or other remuneration for services. We note that also absent from the record is evidence of earnings accrued through any prizes awarded to the Petitioner through competitions at which prize money was purportedly awarded. The evidence of record does not demonstrate that the Petitioner has commanded a high salary or other remuneration for services in relation to others in her field. Thus, the Petitioner has not established that she meets the requirements of the criterion at 8 C.F.R. § 204.5(h)(3)(ix).

III. CONCLUSION

The Petitioner has not submitted the required initial evidence of either a one-time achievement or evidence that meets 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. Here, the Petitioner has not shown that the significance of her work is

⁵ Because this tax return does not appear to have been filed and processed by the Internal Revenue Service, it is of limited probative value in these proceedings. The Petitioner must support her Assertions with relevant, probative, and credible evidence. See *Matter of Chawathe*, 25 I&N Dec. at 376.

indicative of the required sustained national or international acclaim or that it is consistent with a “career of acclaimed work in the field” as contemplated by Congress. H.R. Rep. No. 101-723, 59 (Sept. 19, 1990); *see also* section 203(b)(1)(A) of the Act. Moreover, the record does not otherwise demonstrate that the Petitioner has garnered national or international acclaim in the field, and she 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. The appeal will be dismissed for the above stated reasons.

ORDER: The appeal is dismissed.