



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

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

In Re: 22678658

Date: JAN. 31, 2023

Appeal of Texas Service Center Decision

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

The Petitioner, a pastor, 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 although the Petitioner established that he satisfies the initial evidentiary requirements for this classification, he did not establish that he has sustained national or international acclaim and is among the small percentage at the very top of his field.

The matter is now before us on appeal. 8 C.F.R. § 103.3. On appeal, the Petitioner contends that the Director's decision is conclusory and without a thoughtful evaluation of the entire record. The Petitioner also contends that the Director analyzed the evidence under a higher standard of proof going beyond the standard of preponderance of the evidence and dismissed probative documentation in the record.

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

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 a pastor in the field of Christian missions. 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 the following five criteria: (1) published material in professional or major trade publications, (2) the receipt of lesser nationally or internationally recognized prizes or awards, (3) original business contributions of major significance, (4) performance in a critical role for organizations that have a distinguished reputation, and (5) membership in associations for which require outstanding achievements of their members.

The Director concluded that the Petitioner met the following four criteria: (1) published material in professional or major trade publications, (2) original business contributions of major significance, (3) performance in a critical role for organizations that have a distinguished reputation, and (4) membership in associations for which require outstanding achievements of their members. Upon review of the record, we agree with the Director's determination regarding the published material criterion but do not agree with the Director's determination regarding the original contributions, critical role, and membership in associations criteria. Therefore, we conclude that the record does not support a finding that the Petitioner satisfies the requirements of at least three criteria as required under 8 C.F.R. § 204.5(h)(3).

*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 established eligibility for this criterion. However, 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).

The Petitioner claimed that he has made a significant contribution in the field, specifically in his ability to identify, analyze, and solve pressing societal needs through the efforts of his nonprofit organization, [REDACTED]. To support this claim, the Petitioner submitted recommendation letters from various individuals, information about [REDACTED] from the [REDACTED] website, a pre-meeting package of [REDACTED], a balance sheet of [REDACTED], bank statements of [REDACTED], invoices issued to [REDACTED] and transaction receipts of [REDACTED] showing transfers of money from [REDACTED] to various individuals.

For example, a letter from [REDACTED], a pastor and a Christian singer, states that through [REDACTED] the Petitioner has become well known as one of the leading missionaries and he brought material, emotional, and spiritual support to Christians undergoing great tribulations. The Petitioner also submitted a letter from [REDACTED], a member of U.S. Congress, which states that the Petitioner has created and implemented one of the most innovative ministries in Brazil by providing “methods and a structure, such as farming, micro-credit, sports programs, leadership training, and other creative projects.” A letter from [REDACTED], the Attorney General of the State of [REDACTED] Brazil, states that [REDACTED] has helped communities establish schools, pig and chicken farming in various regions, job training, and sports programs and that the Petitioner’s vision of ministry is very unique, and it addresses a global problem with a focus on the local communities. The Petitioner also submitted a letter from [REDACTED], the Director and founder of [REDACTED] which states that [REDACTED] aims to transform local communities where Christians are persecuted and strengthen them to stay and thrive, despite the adversity. A letter from [REDACTED] in the Legislative Branch of the government of Brazil, states that the Petitioner established a novel missionary model where he sends out leaders, including business administrators and other professionals, who will equip and train church leaders and members with practical skills and solutions.

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 as claimed. *See* 8 C.F.R. § 204.5(h)(3)(v). 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. The recommendation letters indicate that the Petitioner has created and implemented innovative ministries by providing methods and a structure, such as farming, micro-credit, sports programs, leadership training, and other creative projects. However, the Petitioner did not submit sufficient evidence to establish that he is solely responsible for creating and implementing these various programs. The record does not sufficiently establish the Petitioner’s role in these various programs. The record also does not sufficiently demonstrate his control or influence over the claimed contributions. Moreover, while the recommendation letters discuss missionary activities of [REDACTED] in general, they do not explain

how the Petitioner's missionary 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 sufficiently demonstrate that the Petitioner's methods or techniques have been widely used by others in the field. The documents in the record do not demonstrate how his contributions rise to a level consistent with major significance. Vague, solicited letters that repeat the regulatory language but do not explain how the petitioner's contributions have already influenced the field is insufficient to establish original contributions of major significance in the field. *Kazarian v. USCIS*, 580 F.3d 1030, 1036 (9th Cir. 2009) *aff'd in part* 596 F.3d 1115 (9th Cir. 2010). Accordingly, the Petitioner does not meet 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 established eligibility for this criterion. However, 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).

The Petitioner claimed that he has performed in a critical role in the establishment of [redacted] in several regions that played a major role with Haitian hurricane relief effort, micro-financing in Burundi, and pig and chicken farming in Guinea Bissau. The Petitioner also claimed that he performed in a critical role for the government of Brazil when he was asked to assist in resolving problems exacerbated from an influx of refugees. To support this claim, the Petitioner submitted recommendation letters from various individuals, information about [redacted] from the [redacted] website, and business entity summary of [redacted] from the Massachusetts Secretary of State website.

For example, the Petitioner submitted a letter from [redacted] the Director and founder of [redacted] which states that the Petitioner, the founder and leader of [redacted] has influenced a whole generation of Brazil to do good things and transform the community. The Petitioner also submitted a letter from [redacted] the President and founder of [redacted] which states that the Petitioner's vision of ministry is so fresh and exiting that it attracts high caliber leaders to carry the torch of [redacted] with him. A letter from [redacted] a member of U.S. Congress, states that [redacted] has provided emergency assistance to the government of Brazil in receiving persecuted Christians who sought asylum in Brazil through programs that help those refugees with assimilation and integration in the local culture. A letter from [redacted], a senator of Brazil, states that [redacted] has provided support to the government of Brazil in the processing and resettlement of Christian refugees who fled persecution in their countries.

The Petitioner submitted documentary evidence from the [redacted] website about the organization but did not submit sufficient independent, objective evidence demonstrating that [redacted] has a reputation that distinguishes it from other Christian missionary organizations. *See* 8 C.F.R. § 204.5(h)(3)(viii). 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 established eligibility for this criterion. However, 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).

The Petitioner asserted that he was admitted to the [redacted] Church of America as a minister under the extraordinary clause of the [redacted] Order because of his extraordinary credentials as a theologian and missionary. To support this claim, the Petitioner submitted (1) [redacted] Stated Meeting of New Jersey [redacted] Church in America and (2) the [redacted] [redacted] Order of the [redacted] Church in America, [redacted]

The [redacted] New Jersey [redacted] states that the Committee has reviewed the Petitioner's college and seminary transcripts and several recommendation letters that directly speak to his service as a minister in the [redacted] Church of Brazil and his work with [redacted] and recommended that New Jersey [redacted] examines the Petitioner under the extraordinary clause according to the [redacted] Order, sections 13-6 and 21-4, for transfer into the [redacted] Church of America. Section 21-4 of the [redacted] Order states that the extraordinary clause should be limited to "extraordinary circumstances of the church or proven extraordinary gifts of the man." Section 13-6 of the [redacted] Order states that ministers seeking admission to a [redacted] in the [redacted] Church in America from other [redacted] must be examined on "Christian experience, and also touching their views in theology, the Sacraments, and church government."

To demonstrate that membership in an association meets this criterion, a petitioner must show that the association requires outstanding achievement as an essential condition for admission to membership. See 8 C.F.R. § 204.5(h)(3)(ii). The record does not reflect that admission to the [redacted] Church of America as a minister under the extraordinary clause of the [redacted] Order requires outstanding achievements of its members. Instead, the record reflects that the extraordinary clause is limited to extraordinary circumstances of the church or proven extraordinary gifts of the members and that the admission requires a review of Christian experience of the members and their views in theology, the Sacraments, and church government. Membership requirements based on activity in a given field, knowledge in a given field, personal or spiritual views on related subjects, or faith in the principal object to be a member do not satisfy this criterion as such requirements do not constitute outstanding achievements. The record does not contain sufficient evidence to support the claim that the [redacted] Church of America requires outstanding achievements of its members, as judged by recognized national or international experts. Accordingly, 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 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. 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 shown that he is a devout Christian and a devoted pastor in the field of Christian missions. However, the record as a whole does not demonstrate a level of recognition that indicates 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. The appeal will be dismissed for the reasons stated above.

**ORDER:** The appeal is dismissed.