



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

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

In Re: 23070824

Date: MAR. 01, 2023

Appeal of Texas Service Center Decision

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

The Petitioner, a packaging engineer, 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 withdraw the Director's decision and remand the matter for entry of a new decision consistent with the following analysis.

## 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 currently employed by Amazon in a position titled Senior Product Manager, Technical. He is a packaging engineer specializing in pharmaceutical packaging. The record includes documentation to demonstrate his achievements and innovations while employed by several manufacturing companies and while working at [redacted] State University. The Petitioner intends to continue his work as a product manager at Amazon.

Because the Petitioner has not indicated or 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 Director determined that the Petitioner did not meet any of the regulatory criteria.

On appeal, the Petitioner asserts that he meets criteria at 8 C.F.R. § 204.5(h)(3)(iii), (iv), (v), (vi), and (viii). He states that the Director did not apply the governing standard of review, preponderance of the evidence.<sup>1</sup> The Petitioner also states that the Director failed to consider the totality of the evidence, that the Director's review of the evidence included inaccuracies, and that the Director did not address certain evidence. After review of the evidence of record, we conclude that the Petitioner has established he has met eligibility requirements for criteria at 8 C.F.R. § 204.5(h)(3)(iv), (v), and (viii). Because the Petitioner has shown that he satisfies at least three criteria, we will remand the matter to the Director to evaluate the totality of the evidence in the context of a final merits determination to determine whether the Petitioner has demonstrated his sustained national or international acclaim, his status as one of the small percentage at the very top of his field of endeavor, and that his achievements have been recognized in the field through extensive documentation.

*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 specification for which classification is sought. 8 C.F.R. § 204.5(h)(3)(iv).*

As evidence of his participation on a panel or as a judge of the work of others in his field, the Petitioner submitted letters of endorsement. The Director determined that these letters did not show the Petitioner's involvement in reviewing work or provide judging criteria. However, one of the letters

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<sup>1</sup> *See INS v. Cardoza-Foncesca*, 480 U.S. 421, 431 (1987) (discussing "more likely than not" as a greater than 50% chance of an occurrence taking place).

from a senior officer at [redacted] that was written during his employment with the company sufficiently describes his participation as a judge of the work of others in the same or an allied field of specification for which classification is sought. Specifically, the letter states that he “has contributed to judging and advancing of innovative packaging ideas developed by external entrepreneurs and start up business communities through [redacted]” which “holds competitions focused on targeting un-met patient needs with winning concept funding.” The letter further states that the Petitioner was involved in judging packaging concepts in these competitions. This sufficiently demonstrates that the Petitioner satisfied the basic elements of this criterion’s requirements. Accordingly, we withdraw the Director’s decision regarding this criterion.

*Evidence of the individual’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 found that the Petitioner did not meet the requirements of this criterion based on his submission of letters of endorsement, stating that evidence must show that his contributions “went beyond the business and the business’ clients and impacted [or was] of major significance to the field as a whole.” We note that most of the letters referenced in the decision are from individuals who worked directly with the Petitioner; these individuals provided detailed descriptions of his original contributions to the field of packaging engineering. For example, a senior director at [redacted] [redacted] citing the Petitioner’s design of a unique plastic alternative to a problematic glass tuberculosis tube stated, “[redacted] solution was so significant to user safety that it was endorsed by the World Health Association (WHO).” And with regard to the Petitioner’s role as the technical leader for the implementation of a new manufacturing platform, another senior executive at [redacted] stated,

As the technical leader of this project, [redacted] specialized and unique knowledge of pharmaceutical operations, polymer technology, and engineering economics was crucial to the success and commercialization of [this platform] for pharmaceutical packaging. [This] was ground-breaking as it was the first major technology innovation for oral solids packaging since the invention of injection blow molding....

A senior director at [redacted] stated of the Petitioner’s work,

[He] enabled [redacted] to progress product development in areas previously not possible. An example being the development and validation of a package which provides both chemical and physical protection to an Orally Dissolving Tablet.... The uniqueness of this innovative solution is that the package was required to meet the most stringent Child Resistant (CR) standard, due to the safety profile of the drug. Prior to [redacted] involvement, a solution meeting the safety and business requirements was not available.

The Director refers to all of the letters of record as “[I]etters of recommendation written by experts” and states that, although USCIS may use such letters as advisory opinions submitted by expert witnesses,<sup>2</sup> the significance of the Petitioner’s work must be demonstrated by preexisting,

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

independent, and objective evidence. While the record does include correspondence from experts in the field that purport to objectively evaluate the originality and significance of the Petitioner's contributions, the Director appears to have miscategorized all of the endorsement letters as such; the detailed letters from the Petitioner's former colleagues were not analyzed as a part of the Director's decision, despite the fact that the Director's request for evidence stated that any letters of support submitted must include details concerning the Petitioner's contributions. Upon review of the record, we conclude that the evidence satisfies the requirements of this criterion. Accordingly, we withdraw the Director's decision regarding this criterion.

*Evidence that the individual 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's decision references the letters of endorsement concerning the Petitioner's work and states that they do not explain how his accomplishments impacted his employers. However, the evidence of record appears to the contrary; several of the letters include detailed descriptions of the Petitioner's role and impact on the companies for which he worked. For example, the letter from [redacted] explains that the Petitioner was instrumental in the development and launch of a technology that "fundamentally changed production" of polyethylene terephthalate (PET) beverage bottles. The letter provides the following (quoted as written):

This innovation single handedly allowed [redacted] to gain global contracts with early adopters, such as Pepsi and Coca-Cola. Due to [redacted] involvement in this project, [redacted] claimed a spot as one of the top global PET packaging mold makers. Further, because of his effective leadership, [redacted] along with other members of [redacted] leadership team, was the recipient of *Canada's 50 Best Managed Companies* award for [redacted] consecutive years, recognized by the consortium of [redacted]. Additionally, because of [redacted] contributions, [redacted] was recognized by *Profit Magazine* in "The Hall of Fame" as one of the "Most Profitable Companies in Canada" for [redacted] consecutive years.

As another example, the letter from a former executive at [redacted] discusses how the Petitioner's work to solve a complex issue related to leaking detergent containers resulted in securing the company's multi-year contract of \$80 million per year with its largest client. The letter includes a description of how the Petitioner's redevelopment of a capital equipment quoting process resulted in new business contracts with British Petroleum and Colgate. Another example includes the aforementioned letter from [redacted] that details the Petitioner's critical role in developing solutions for the company with regard to child-resistant (CR) packaging. The letter also states that the Petitioner's "expertise allow[ed] the business to pursue new innovative formats [through] his work in developing a CR sachet in support of the development of a Tylenol granules product for children." The record includes evidence that explains how the Petitioner's work as a project manager, plant manager, vice president of operations, director of engineering, program director, and director of global consumer packaging significantly impacted several notable companies. The Director also determined that the record did not include evidence that the organizations for which the Petitioner may have served in a critical or leading role have distinguished reputations. As per the letters of endorsement in the record and internet open-source information, [redacted] is a multi-million-dollar company and

[redacted] generates approximately \$2 billion in annual revenues. [redacted]  
[redacted] are multi-billion-dollar companies that each employ tens of thousands of employees and operate worldwide. We conclude that the evidence of record satisfies the requirements of this criterion. Accordingly, we withdraw the Director's decision regarding this criterion.

### III. CONCLUSION

Because we conclude that the Petitioner meets at least three of the ten initial criteria at 8 C.F.R. § 204.5(h)(3), we will withdraw the Director's decision and remand the matter for further review and entry of a new decision. The new decision should include a final merits determination based on an analysis of the totality of the record evaluating whether the Petitioner has demonstrated, by a preponderance of the evidence, his sustained national or international acclaim, his status as one of the small percentage at the very top of his field of endeavor, and that his achievements have been recognized in the field through extensive documentation. *See* section 203(b)(1)(A)(i) of the Act; 8 C.F.R. § 204.5(h)(2), (3); *see also Kazarian*, 596 F.3d at 1119-20.

**ORDER:** The Director's decision is withdrawn. The matter is remanded for the entry of a new decision consistent with the foregoing analysis.