



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

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

In Re: 23373016

Date: MAR. 13, 2023

Appeal of Texas Service Center Decision

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

The Petitioner, a producer and television host, 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 currently serves as a spokesperson and brand ambassador for the [REDACTED] a philanthropy based in [REDACTED] Rhode Island. The record includes documentation to demonstrate the Petitioner's role as an advocate for the foundation's philanthropic work in Latin and South America and within Hispanic communities in the United States. The Petitioner intends to continue furthering the mission of the foundation through her work as a spokesperson and ambassador, as the producer and host of a children's television show, and as a producer of films and documentaries focused on human interest stories and humanitarian relief efforts.

Because the Petitioner has not indicated or shown that she received a major, internationally recognized award, she 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 met two of the regulatory criteria by demonstrating the existence of published material about her work in major media and by providing evidence of her participation as a judge of the work of others in her field of expertise.¹ On appeal, the Petitioner asserts that she meets criteria at 8 C.F.R. § 204.5(h)(3)(vii), (viii), (ix), and (x). The Petitioner states that the Director did not provide a full analysis of the evidence submitted or consider certain evidence. As more fully discussed below, we conclude that the Petitioner has satisfied the criterion at 8 C.F.R. § 204.5(h)(3)(viii). Because the Petitioner has shown that she 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 her sustained national or international acclaim, her status as one of the small percentage at the very top of her field of endeavor, and that her achievements have been recognized in the field through extensive documentation.

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 Petitioner has submitted evidence of her work for the [REDACTED] as a spokesperson, an ambassador, a television show host, and a producer. Evidence included a letter from the foundation's president and the former chairman and chief executive officer of [REDACTED] of which the foundation is a philanthropic endeavor. The foundation's president wrote that he supervises

¹ See 8 C.F.R. § 204.5(h)(3)(iii) and (iv).

the Petitioner and provided a detailed description of the Petitioner's roles and her impact on the organization:

Since 2013, [redacted] has represented the Foundation at various philanthropic events and leads our efforts to facilitate partnerships with local organizations across Latin America. The [redacted] takes pride in the fact that [redacted] has traveled to underprivileged Spanish speaking communities all around the world and in the United States to deliver [redacted] humanitarian and financial aid on behalf of [redacted] and the foundation. For example, in 2017, on behalf of [redacted] [redacted] led a team to Puerto Rico after Hurricane Maria to provide humanitarian relief efforts and also helped lead the evacuation of critically injured Puerto Ricans in need of medical care. In 2019, she traveled to Argentina, Colombia, Mexico, and Venezuela to fulfill our philanthropic efforts...and delivered humanitarian and financial aid as well as toys on behalf of [redacted] and [the] [redacted]

Of the television show that the Petitioner produces and hosts, the foundation's president wrote,

[redacted] work on the show as the executive producer and host has been instrumental in the show's continued contract with major U.S. TV station, Mega TV.... [She] has been critical in the success of the show and it's [sic] continuous airing since 2013 in major television channels like CNN Latino, Mira Tv, mega TV, and Latin and South American television station CB24. Through the show, [redacted] creates content that aligns with the [redacted] mission and vision and can educate, empower and inspire Spanish speaking children and their families. Without her leading and critical role in the show [redacted] this endeavor would not be possible.

The letter also includes details concerning the Petitioner's work on documentaries funded by the foundation through her company, [redacted] and a letter from an executive at Mega TV discusses the success of the television show. A letter from a specialist for global philanthropy and social impact at [redacted] provides an additional perspective on the Petitioner's involvement with the foundation:

[redacted] work in the children's television show and documentaries highlight and demonstrate awareness on many different topics to include health, nutrition, social and political climates in Latin America.... These documentaries demonstrate humanitarian, political and economic injustices of Spanish speaking countries.... I personally had the privilege of working with [redacted] on [redacted] where we travelled to Colombia to bring humanitarian help and awareness to the indigenous community that resides in [redacted]... The television show and the documentaries created by [redacted]...have been able to not only document the struggle of these Spanish speaking communities but also helped bring awareness and change these situations by providing humanitarian and monetary aid, toys and food for the less fortunate.

Although the Director found that the evidence of record shows that the foundation has a distinguished reputation, he determined that the president’s letter “primarily contains unsupported assertions that the petitioner’s role was critical without sufficient explanation and supporting documentation.” The Director did not discuss the letters from the [redacted] representative or the Mega TV executive, and the Petitioner highlights this omission on appeal, stating that the decision refers to this documentation “as ‘letters of support’ without evaluation or analyzing” the evidence. She asserts, for example, that the letter from the foundation describes “how the success of the foundation is attributable to the critical role that the petitioner performed and discusses specific projects the petitioner has worked on....” A review of the record shows that the letters of endorsement do provide explanations of the Petitioner’s critical role; these letters contain detailed and probative information² regarding the Petitioner’s role and were authored by individuals with direct knowledge of her work. The letters are supported by documentation that includes several articles and webpages, evidence of the television show’s regional Emmy nominations and awards, as well as certificates of appreciation for the Petitioner’s work from city and district leadership in [redacted] Florida, and [redacted] California. Upon review, we conclude that the Petitioner has met the criterion at 8 C.F.R. § 204.5(h)(3)(viii).

III. CONCLUSION

For the reasons discussed above, we will withdraw the Director’s decision and remand the matter for further review and entry of a new decision. Because the Petitioner has established her qualifications under criteria at 8 C.F.R. § 204.5(h)(3)(iii), (iv), and (viii), on remand, the Director should conduct a final merits review of the evidence of record. The new decision should include an analysis of the totality of the evidence evaluating whether the Petitioner has demonstrated, by a preponderance of the evidence, her sustained national or international acclaim, her status as one of the small percentage at the very top of his field of endeavor, and that her 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.

² *See generally* 6 USCIS Policy Manual F.2(B)(2), <https://www.uscis.gov/policymanual>.