



U.S. Citizenship
and Immigration
Services

Non-Precedent Decision of the
Administrative Appeals Office

In Re: 24514114

Date: MAR. 13, 2023

Appeal of Nebraska Service Center Decision

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

The Petitioner, a hospitality entrepreneur/bar professional, 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 Nebraska Service Center denied the petition, concluding that the record did not establish that the Petitioner met the initial evidentiary requirements through evidence of a one-time achievement or meeting at least three of the 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

Section 203(b)(1)(A) 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). This two-step analysis is consistent with our holding that the “truth is to be determined not by the quantity of evidence alone but by its quality,” as well as the principle that we examine “each piece of evidence for relevance, probative value, and credibility, both individually and within the context of the totality of the evidence, to determine whether the fact to be proven is probably true.” *Matter of Chawathe*, 25 I&N Dec. at 376.

II. ANALYSIS

The Petitioner indicates he is and intends to continue working in the United States as a hospitality entrepreneur/bar professional.

The Petitioner did not indicate, and the record does not establish, that he has received a major, internationally recognized award pursuant to 8 C.F.R. § 204.5(h)(3). The Petitioner must therefore demonstrate his eligibility under at least three of the alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x). Before the Director, the Petitioner claimed to have met the following criteria:

- Judge of others’ work;
- Leading or critical role;
- Lesser prizes or awards;
- Membership in associations;
- Published material about him and his work;
- Original contributions of major significance;
- Display of work at artistic showcases or exhibitions; and
- Authorship of scholarly articles.

The Director found that the Petitioner satisfied the regulatory requirements for two criteria, judge of others’ work under 8 C.F.R. § 204.5(h)(3)(iv) and leading or critical role under 8 C.F.R. § 204.5(h)(3)(viii). We agree with the Director that the Petitioner meets these criteria.

On appeal, the Petitioner asserts that he also meets the evidentiary criteria relating to the remaining criteria of lesser nationally or internationally recognized awards or prizes under 8 C.F.R. § 204.5(h)(3)(i), membership in associations under 8 C.F.R. § 204.5(h)(3)(ii), published material under 8 C.F.R. § 204.5(h)(3)(iii), original contributions of major significance under 8 C.F.R. § 204.5(h)(3)(v), and display of work at artistic showcases or exhibitions under 8 C.F.R. § 204.5(h)(3)(vii). The Petitioner does not dispute on appeal the Director’s conclusion that the Petitioner does not meet the criterion relating to authorship of scholarly articles. Therefore, we deem this issue to be waived, and we will not address this criterion further. See *Matter of Mariscal-Hernandez*, 28 I&N Dec. 666, 672 (BIA 2022) (finding arguments not raised on appeal are abandoned). After reviewing the evidence in the record, we agree with the Director that the Petitioner has not demonstrated that he satisfies at least three of the ten initial evidentiary criteria and is not otherwise eligible for the requested benefit.¹

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).

The Petitioner submitted evidence claiming he met the criterion based on two awards, the first being a first class certificate for the competition of barman which took place at the disco club, [redacted] in 2000, and a certificate of participation in the master class held at the [redacted] in [redacted] in 2009. To meet this criterion, the Petitioner must demonstrate his awards are nationally or internationally recognized for excellence in his field of bar professional. *Id.* When determining whether the awards were for excellence in the field, relevant considerations include the criteria used to grant the awards; the national or international significance of the awards; and the number of awardees, as well as any limitations on competitors.² We agree with the Director that the evidence does not sufficiently support the plain language of the criterion that the awards are nationally or internationally recognized awards, or that they are awards for excellence in the Petitioner’s field of bar professional.

For this first class certificate earned at the [redacted], the record includes a letter from [redacted] Chairman of the Committee of [redacted] stating that the certificate was the highest award awarded by the International Barman Association (IBA), with an explanation of the IBA’s reputation, the criteria for earning the certificate, and previous winners of the certificate. The Petitioner argues on appeal that the letter dated June 6, 2022, from [redacted] demonstrates the first class certificate has national and international recognition because the letter states the competition had “national and international news coverage” which is included in attached newspaper articles. The Petitioner also argues that the letter describes the international recognition of the award by stating, the award “represents the range and magnitude of the global drink industry” taking into account the nominees’ “experience and frequency in [sic] international arena.” The record includes one news article dated [redacted] 2000, entitled [redacted], related to the event. The article explains that the event is the first bartenders’ competition in Armenia and provides some event information. However, the article’s publication distribution details have not been

¹ While we do not discuss each piece of evidence in the record individually, we have reviewed and considered each one.

² See generally 6 USC1S Policy Manual F.2(B)(2) Appendix, <https://www.uscis.gov/policymanual>.

provided, therefore the evidence does not demonstrate whether the news article was published to a national or international audience, or if it was limited to local news media.

Also, evidence in the record contradicts some of the letter's statements. While the letter from [redacted] indicates the certificate was awarded by the IBA, the news article indicates the competition was initiated by students who graduated from a bartending school, [redacted]. Also, neither the news article nor the certificate indicates the competition was provided by the IBA; instead, they both indicate the disco club [redacted] held the competition with the top of the certificate labeled with the advertising brand logo and name for the disco club [redacted]. Instead of IBA holding the competition and awarding the certificate, the news article and the certificate both include a limited IBA reference indicating the competition was held "in accordance with the rules of the International Barman Association". These inconsistencies do not clearly demonstrate the IBA held the competition, thereby questioning the national or international recognition of the award. See Matter of Ho, 19 I&N Dec. 582, 591-92 (BIA 1988) (requiring a petitioner to resolve inconsistencies of record with independent, objective evidence).

Also, the article indicates the Petitioner was one of three persons who won the first round of the competition on [redacted] 2000, being awarded a silver shaker. The record includes a photograph depicting the silver shaker with the certificate. The article was published a couple of days after the certificate was awarded and states the best bartender would later receive a gilded shaker at the end of the year. It is unclear whether the Petitioner's certificate was awarded for his excellence in the field since the article appears to indicate the certificate received by the Petitioner was also awarded to two other people, and a higher award for best bartender would be awarded at the end of that year. Such statements also appear to contradict the letter from [redacted] which states the Petitioner earned the highest award. Without resolution of these inconsistencies, the record does not demonstrate the certificate recognizes the Petitioner's excellence in his field. See id.

With the second claimed award, the certificate of participation in the master class held at the [redacted] [redacted] in 2009, the Petitioner submitted a letter dated June 6, 2022, from [redacted] Member of the Committee of [redacted]. The letter states the Petitioner earned the highest award by [redacted] in 2009, and provides details about the [redacted] [redacted] the criteria for the award, and previous winners of the award. While the letter makes a statement that this is an award that received "international and national media coverage", no further evidence was submitted relating to the award's international and national recognition. While the letter mentions the media coverage of the award, the evidence is insufficient to demonstrate the national or international recognition of the award.

This letter also includes inconsistencies from evidence in the record. The letter indicates the Petitioner received the highest award, [redacted], however, the certificate indicates the Petitioner earned a certificate of participation at the master class at the competition entitled [redacted] [redacted]. This letter describes the award's criteria, which criteria is the same criteria, word for word, stated by [redacted] for the first class certificate from 2000. The nearly identical language in the letters "suggests that the letters were all prepared by the same person and calls into question the persuasive value of the letters' content." See *Hamal v. U.S. Dep't of Homeland Security*, No. 19-2534, slip op. at 8, n.3 (D.D.C. June 8, 2021). Also, [redacted] letter provides details for the competition, [redacted] Competition, however, the Petitioner's certificate relates to

the competition, [redacted] The Petitioner must resolve inconsistencies in the record with independent, objective evidence pointing to where the truth lies. See Matter of Ho, 19 I&N Dec. at 591-92. Therefore, the evidence does not sufficiently demonstrate the certificate of participation recognizes the Petitioner's excellence in his field.

The Petitioner has not established that he meets 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).

To meet this criterion, first, the Petitioner must demonstrate that he is a member of an association in his field. Second, the Petitioner must demonstrate both of the following: (1) the associations utilize nationally or internationally recognized experts to judge the achievements of prospective members to determine if the achievements are outstanding, and (2) the associations use this outstanding determination as a condition of eligibility for prospective membership.³

On appeal, the Petitioner claims he meets this criterion by being a guild member of the IBA. The Petitioner argues the IBA's bylaws demonstrate that guild membership requires outstanding achievement since guild membership is the highest IBA membership and is limited to one bartender per country. The Petitioner argues that experts in the field judge guild membership since applications must first be submitted to the IBA president and the guild's vice president, and the guild membership must then be approved by two thirds vote at a general or special membership meeting. The Petitioner further argues that experts in the field, the IBA president and the guild's vice president, review the guild membership application, and professional barmen vote to approve the guild membership.

While the bylaws indicate a guild membership is limited in number, and requires an application and voting process, the bylaws do not demonstrate guild membership requires outstanding achievement or that the voting is judged by experts in their field. The bylaws do not indicate the IBA guild members' applications are selected and approved by having outstanding achievement in the field. Instead, the bylaws state that guild membership is "open to all independent National Bartenders Guilds whose members are cocktail bartenders that meet the standards of the profession and furthermore satisfy to the requirements and conditions laid down in the Rules and Regulations of the I.B.A. Applications for Guild Membership" Meeting the standards of the profession and satisfying any requirements of the guild membership application, does not demonstrate the requirement that guild members have outstanding achievement.

Also, submitting the application to a particular person, the IBA president and the guild's vice president, does not demonstrate they are recognized national or international experts in the barman field judging the Petitioner's outstanding achievements. A two third vote by members also does not demonstrate there is a judgement of outstanding achievements by recognized national or international experts in the barman field.

³ See generally 6 USC1S Policy Manual, supra, at F.2 Appendix.

We agree with the Director that the record does not include sufficient evidence to demonstrate the Petitioner meets the plain language of this criterion.

Published material about the individual in professional or major trade publications or other major media, relating to the alien'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 his specific work in the field for which classification is sought; include the title, date, and author of the material and any necessary translation; and qualify as a professional publication, major trade publication, or major media publication. 8 C.F.R. § 204.5(h)(3)(iii). We agree with the Director that the Petitioner does not meet this criterion.

Some of the articles submitted do not include the title, date, or author of the material, thereby not meeting the plain language of the criterion. For instance, the Petitioner submitted an article entitled, [redacted] dated [redacted] 2013, and another entitled, [redacted] dated [redacted] 2019. Neither article identifies an author, therefore, such articles do not meet the plain language of the criterion requiring "the title, date, and author of the material". *Id.* The Petitioner also submitted an article from the magazine [redacted] which does not include the title or date of the article, thereby not meeting the plain language of the criterion. *Id.* Also, the record does not demonstrate the magazine publication is a professional or major trade publication or other major media as required by the plain language of the publication. *Id.*

The Director found some published material was not related to the Petitioner and his work in the field. While some of the material mentions the Petitioner, the Director pointed out that the articles were primarily about the Petitioner's work, bartending, and not about the Petitioner. We agree with the Director. While articles mention the Petitioner or provide a quote from him, they are primarily about bartender competitions and the bartending industry, not about the Petitioner. For instance, the article dated [redacted] 2000, entitled [redacted] discusses the disco club [redacted] competition. While the article mentions in a sentence that the Petitioner was one of three winners of the first round of the competition, it mainly discusses the competition. Another article entitled, [redacted] dated [redacted] 2019, includes quotes from the Petitioner, however, the article is not about the Petitioner, and instead discusses Armenia being a possible future host country for world bartending competitions. The articles do not include substantial or material discussion about the Petitioner relating to his work.

The Petitioner also submitted material published by the IBA which relates to its meetings and updates within the barman industry. The Petitioner argues on appeal that this material is about the Petitioner and his field of barman because the material indicates the IBA meetings were held in Armenia and the Petitioner is the president of the Armenian Bartenders' Association. While the Petitioner is shown in one photograph, the material does not mention the Petitioner and mainly discusses the IBA meetings. Therefore, the material published by the IBA does not sufficiently demonstrate that the material is about the Petitioner.

The Petitioner also argues on appeal that material he authored for the publication, [redacted] as its chief editor, meets the criterion. However, as pointed out by the Director, the material is authored by the Petitioner, and is not about him. Therefore, it does not meet the plain language of the criterion requiring that the published material be “about the individual”. *Id.*

The Petitioner also submitted screen capture images from several YouTube videos. The Petitioner did not submit transcripts and any necessary English translations, and therefore the evidence submitted does not show that the videos are published material about the Petitioner relating to his work in the field for which he seeks classification.⁴ Also, he did not submit evidence such as view counts to establish that the YouTube channels that carried the videos qualify as professional or major trade publications or other major media.⁵

We find that the evidence in the record does not establish that he satisfies this criterion.

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 primary requirements here are that the Petitioner’s contributions in the field were original and they rise to the level of major significance in the field as a whole, rather than to a project or to an organization. *Amin v. Mayorkas*, 24 F.4th 383, 394 (5th Cir. 2022) (citing *Visinscaia*, 4 F. Supp. 3d at 134). The regulatory phrase “major significance” is not superfluous and, thus, it has some meaning. *Nielsen v. Preap*, 139 S. Ct. 954, 969 (2019) (finding that every word and every provision in a statute is to be given effect and none should needlessly be given an interpretation that causes it to duplicate another provision or to have no consequence). Further, the Petitioner’s contributions must have already been realized rather than being potential, future improvements. Contributions of major significance connotes that the Petitioner’s work has significantly impacted the field. The Petitioner must submit evidence satisfying all these elements to meet the plain language requirements of this criterion.

The Petitioner submitted evidence indicating gratitude for his support of various associations, his completion of field related education programs, and his attendance at field related conferences. While these documents show the Petitioner participated in events and provided support related to his field, they do not demonstrate the Petitioner had original contributions of major significance in the bartending field by attending these events and providing support in his field.

He also submitted two reference letters from vice presidents of the Armenian Bartenders’ Association, in which the authors praise the Petitioner’s personal and professional qualities, his abilities as a leader of the Armenian Bartenders’ Association, as well as his contributions to the bartending profession and hospitality industry. However, the authors do not identify any original contributions, nor do they provide specific, detailed information explaining how the contributions have been majorly significant in the field. Letters that specifically articulate how a petitioner’s contribution are of major significance to the field and its impact on subsequent work add value to meeting the criterion.⁶ On the other hand,

⁴ See generally 6 USC1S Policy Manual, *supra*, at F.2 Appendix.

⁵ *Id.*

⁶ See generally 6 USC1S Policy Manual, *supra*, at F.2 Appendix.

letters that lack specifics and use hyperbolic language do not add value and are not considered to be probative evidence that forms the basis for meeting this criterion.⁷ Moreover, USCIS need not accept primarily conclusory statements. *1756, Inc. v. The US. Att’y Gen.*, 745 F. Supp. 9, 15 (D.C. Dist. 1990). The Petitioner has submitted letters from individuals close to him, praising his leadership and contributions to the field, but he also has not shown that these opinions represent a wider consensus, amounting to recognition of his original contributions across his field.

Here, the evidence indicates that the Petitioner positively influenced and impacted the profession of barman within Armenia and the Armenian hospitality industry; however, the evidence does not support a finding that the Petitioner provided original business-related contributions of major significance to the field of barman. The record does not include specific methods or techniques the Petitioner developed to support a finding that his contributions to his field are original and of major significance to the field.

Accordingly, the Petitioner has not established eligibility under this criterion.

Evidence of the display of the alien’s work in the field at artistic exhibitions or showcases. 8 C.F.R. § 204.5(h)(3)(vii).

This criterion requires evidence that a petitioner’s work was displayed, and that display occurred within an exhibition or showcase that was artistic in nature.⁸ We agree with the Director that the evidence is insufficient to show the Petitioner’s work has been displayed in an artistic exhibition or showcase.

The Petitioner submitted evidence demonstrating he attended field-related conferences, competitions, and educational trainings. However, the record does not indicate the Petitioner’s work product as a barman was displayed, or that the events he attended are artistic exhibitions or showcases. While the evidence indicates the Petitioner attended events relating to the profession of barman, it does not indicate his work as a barman was on display at these events. Also, the record does not demonstrate these events were artistic exhibitions or showcases. The plain language of the criterion specifically requires “display of the [Petitioner’s] work” at “artistic exhibitions or showcases.” 8 C.F.R. § 204.5(h)(3)(vii).

The record does not demonstrate the Petitioner meets the plain language requirements of 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 criteria. As a result, we need not provide the type of final

⁷ *Id.* See also *Kazarian*, 580 F.3d at 1036, *aff’d in part* 596 F.3d at 1115 (holding that letters that repeat the regulatory language but do not explain how an individual’s contributions have already influenced the field are insufficient to establish original contributions of major significance in the field).

⁸ See generally 6 USC1S Policy Manual, *supra*, at F.2 Appendix (stating that officers should determine whether the work that was displayed is the person’s work product, the work must be the person’s; and when determining whether the venue where the person’s work is displayed were artistic exhibitions or showcases, use the common dictionary definitions of “exhibition” and “showcase” in evaluating this criterion).

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. See *Matter of Price*, 20 I&N Dec. at 954 (concluding that even major league level athletes do not automatically meet the statutory standards for classification as an individual of “extraordinary ability,”); *Visinscaia*, 4 F. Supp. 3d at 131 (internal quotation marks omitted) (finding that the extraordinary ability designation is “extremely restrictive by design,”); *Hamal v. Dep’t of Homeland Sec. (Hamal II)*, No. 19-cv-2534, 2021 WL 2338316, at *5 (D.D.C. June 8, 2021) (determining that EB-1 visas are “reserved for a very small percentage of prospective immigrants”); see also *Hamal v. Dep’t of Homeland Sec. (Hamal I)*, No. 19-cv-2534, 2020 WL 2934954, at * 1 (D.D.C. June 3, 2020) (citing *Kazarian*, 596 F.3d at 1122 (upholding denial of petition of a published theoretical physicist specializing in non-Einsteinian theories of gravitation) (stating that “[c]ourts have found that even highly accomplished individuals fail to win this designation”)).

Here, the Petitioner has not shown that the significance of his work is 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 sustained national or international acclaim in the field, and 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.