



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

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

In Re: 27693286

Date: NOV. 15, 2023

Appeal of Nebraska Service Center Decision

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

The Petitioner, a writer, 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 had satisfied at least three of ten initial evidentiary criteria, as required. The Director also concluded that the Petitioner had not established that her entry into the United States will substantially benefit prospectively the United States. 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. We will also enter a finding of willful misrepresentation of material facts.

I. LAW

Section 203(b)(1)(A) of the Act makes immigrant visas available to individuals with 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. These individuals must 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 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 the individual’s achievements in the field through a one-time achievement in the form of a major, internationally recognized award. Or the petitioner can submit evidence 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. If those

standards do not readily apply to the individual's occupation, then the regulation at 8 C.F.R. § 204.5(h)(4) allows the submission of comparable evidence.

Once a petitioner has met the initial evidence requirements, the next step is a final merits determination, in which we 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, a native and citizen of Bangladesh, claims to have been a published writer since 1997, writing four volumes of poetry, a book of short stories, and a novel. Her poems have also appeared in various newspapers, and in 2016 she began working as a script writer for Voice of Bangladesh. The Petitioner entered the United States in November 2020 as a B-2 nonimmigrant visitor.

A. Willful Misrepresentation of Material Facts

Before we discuss the merits of the appeal and the underlying petition, we begin with a finding that the Petitioner willfully misrepresented material facts in this proceeding.

Misrepresentation of a material fact may lead to multiple consequences in immigration proceedings. Any noncitizen who, by fraud or willfully misrepresenting a material fact, seeks to procure (or has sought to procure or has procured) a visa, other documentation, or admission into the United States or other benefit provided under the Act is inadmissible. Section 212(a)(6)(C)(i) of the Act, 8 U.S.C. § 1182(a)(6)(C)(i).

Under Board of Immigration Appeals precedent, a material misrepresentation is one which “tends to shut off a line of inquiry which is relevant to the alien’s eligibility and which might well have resulted in a proper determination that he be excluded.” *Matter of S- and B-C-*, 9 I&N Dec. 436, 447 (BIA 1961). A willful misrepresentation requires that the individual knowingly make a material misstatement to a government official for the purpose of obtaining an immigration benefit to which one is not entitled. *Sergueeva v. Holder*, 324 Fed. Appx. 76 (2d Cir. 2009) (citing *Matter of Kai Hing Hui*, 15 I&N Dec. 288, 289-90 (BIA 1975)). Material misrepresentation requires only a false statement that is material and willfully made. *See* 9 FAM 40.63 N2; *see also Matter of Tijam*, 22 I&N Dec. 408, 424 (BIA 1998) (*en banc*) (Rosenberg, concurring). The term “willfully” means knowing and intentionally, as distinguished from accidentally, inadvertently, or in an honest belief that the facts are otherwise. *See Matter of Healy and Goodchild*, 17 I&N Dec. 22, 28 (BIA 1979).

The Petitioner submitted printouts of several articles purporting to be from various online newspapers. Efforts to verify the Petitioner’s evidence, by following the web links printed on the submitted articles, showed that at least three of these articles were falsified, with the Petitioner’s name, photograph, and other information inserted into existing articles that were actually about other people.

The earliest claimed article, attributed to *Jugantor* on [redacted] 2019, includes photographs of eight individuals, with the Petitioner [redacted]. The text of the submitted article lists the names of 30 people, with the Petitioner's name [redacted] in the list. The web address on the printout actually leads to an article from [redacted] 2022, showing seven of the same eight photographs, with another person's photograph in place of the Petitioner's. A different person's name is the [redacted] listed. The Petitioner's name does not appear.

The second claimed article, said to have appeared on the Bengali website [redacted] [redacted] 2019, also includes photographs of eight individuals, with the Petitioner's image [redacted]. In the submitted printout, the Petitioner's is the [redacted] of eight listed names. The article at the web address provided shows seven of the same photographs, with a different individual shown instead of the Petitioner, and the [redacted] listed name is not the Petitioner's name. The Petitioner's name is not listed at all on this version.

The third claimed article, attributed to [redacted] and dated [redacted] 2019, purports to be solely about the Petitioner's claimed receipt of the [redacted] Award. The authentic article at the link provided, however, is dated [redacted] 2022, and names a different author as the winner of the [redacted] Award.

The information summarized above indicates that the Petitioner, or someone acting on her behalf, altered authentic articles from 2022 by inserting her name and photograph, and backdated those articles to 2019.

Because the genuine online newspaper articles originated outside the record of proceeding, we issued a notice of intent to dismiss (NOID) on August 15, 2023, as required by 8 C.F.R. § 103.2(b)(16)(i). We advised the Petitioner that, if she were unable to rebut and overcome this derogatory information, we would dismiss the appeal with a finding that the Petitioner had willfully misrepresented material facts.

In response, the Petitioner states:

All the news articles I intended to provide were from 2019. At that time, [redacted] [redacted] were focused on printed versions and their online portals were not properly updated. After the Covid-19 pandemic, all of these newspapers started updating their online portals. Due to upgradation of their portals and server, many articles could not be updated and some were mistakenly deleted. As a result, many links to these portals were faulty and they did not work. Instead, these links redirected to other news articles. . . .

. . . .

We have provided the proper article's links . . . and also collected signed statements from the Editors of those newspapers that there [sic] articles were authentically published.

The Petitioner claims that the links she provided "redirected to other news articles," but we have shown that the authentic articles are largely similar to the printouts the Petitioner submitted, except that they do not include her name or image. The names and photographs of the other people in those articles appear in the same order as in the printouts that the Petitioner submitted.

Critically, the Petitioner submits no evidence to corroborate her claim that the articles were accidentally deleted from the websites of [redacted] during portal or server upgrades. Instead, she claims that exactly the same articles also appeared on three other websites. The Petitioner submits letters attributed to the editors of [redacted] and [redacted] attesting that their respective websites carried the articles described above. The letters contain web addresses that lead to articles that match the printouts that the Petitioner had previously submitted.

The three purported editors do not claim or document any affiliation between [redacted] [redacted] or between [redacted] and [redacted] and they do not claim that they took their articles from the other named publications. The letters do not explain why the newly linked articles are identical to the printouts that the Petitioner had previously submitted, attributed to three different publications.

It is the petitioner's responsibility and burden to resolve any inconsistencies in the record with independent objective evidence, and attempts to explain or reconcile such inconsistencies will not suffice without competent objective evidence pointing to where the truth, in fact, lies. *See Matter of Ho*, 19 I&N Dec. 582 (BIA 1988). The Petitioner's response to the NOID does not meet this standard.

Without credibly corroborated explanations, the appearance of identical articles on different websites raises questions about the true origin of the articles. The Petitioner has not submitted evidence to establish that the newly submitted links were operational at the time of their claimed publication in 2019, or that the articles at those links existed on any website in 2019.¹ We note that the Petitioner had previously submitted other printouts from [redacted] published in 2020, but she did not claim at that time that either of those publications had published the newly-claimed articles about her in 2019.

The Petitioner has not established that the printouts she previously submitted are authentic articles published by [redacted] in 2019. The Petitioner had specifically submitted the printouts as evidence in support of material claims. Her attempts to explain the derogatory evidence raise more questions. We conclude, therefore, that those originally submitted printouts were falsified in order to support the petition. The active substitution of the Petitioner's name and image in place of the names and images of other people shows that the falsification was willful rather than inadvertent.

The information in the falsified articles is material to the petition because it relates to eligibility criteria under 8 C.F.R. § 204.5(h)(3)(i) and (ix), pertaining, respectively, to prizes and high remuneration.

For the above reasons, we find that the Petitioner willfully misrepresented material facts in seeking to procure a benefit under the Act.

¹ The newly claimed [redacted] article at [https://\[redacted\]](https://[redacted]) is dated [redacted] 2019. The next consecutively numbered web address, [https://\[redacted\]](https://[redacted]), shows the same photograph of the Petitioner, the Petitioner's first name, and a publication date of [redacted] 2023, about three weeks after we issued the NOID, and four days before the date of the letter attributed to the publisher of [redacted]

A petition can only be properly approved upon a determination that the facts stated in the petition are true. *See* section 204(b) of the Act, 8 U.S.C. § 1154(b). Doubt cast on any aspect of a petitioner’s proof may undermine the reliability and sufficiency of the remaining evidence offered in support of the visa petition. *Matter of Ho*, 19 I&N Dec. at 591. Therefore, we may view other record evidence through the lens of the Petitioner’s diminished credibility.

B. Evidentiary Criteria

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 Petitioner initially claimed to have satisfied six of these criteria, summarized below:

- (i), Lesser nationally or internationally recognized prizes or awards;
- (ii), Membership in associations that require outstanding achievements;
- (iii), Published material about the individual in professional or major media;
- (iv), Participation as a judge of the work of others;
- (vii), Display at artistic exhibitions or showcases; and
- (ix), High remuneration for services.

The Director concluded that the Petitioner had not met any of the claimed criteria. On appeal, the Petitioner asserts that she meets all the claimed criteria. We will discuss these claimed criteria below.

Documentation of the alien’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 letters and copies of certificates relating to three claimed awards:

- A Certificate of Excellence from Voice of Bangladesh for writing the scripts for the [redacted] Movement and Book Publication Campaign”;
- The [redacted] Award “for Overall Contribution to Bengali Poetry” at the 2019 [redacted] [redacted] described as an annual Bengali poetry festival; and
- The [redacted] Award from the Bengali Cultural Forum in 2019.

A letter attributed to the president of the Bengali Culture and Culture Forum [sic] states: “This award is a recognition of [the Petitioner’s] commitment, talent and continued effort for Bengali Literature.” A letter attributed to the chairperson of the 2019 [redacted] calls the Petitioner “a very big name in the poetry scene in Bangladesh.”

In a request for evidence (RFE), the Director stated that the Petitioner had “not provided sufficient evidence to demonstrate that each award . . . is nationally or internationally recognized.” The Director requested further information about the awards and their recognition.

In response, the Petitioner claimed that the awards attracted media attention. She submitted printouts of articles purportedly published in 2019 by [redacted] As discussed above, based on the evidence of record, we have concluded that these articles are altered versions of articles about other people. Therefore, we do not give these articles any evidentiary weight.

The Director determined that the Petitioner had not submitted sufficient evidence to show that the claimed awards are nationally or internationally recognized. The Petitioner must establish the recognition of the awards she received. Information about the awarding entities, or the events where she received the awards, do not suffice in this regard.

On appeal, the Petitioner describes previously submitted evidence, including “letters from award[ing] organizations confirming the awards’ selection criteria and their national scope and reputation.” Letters from the awarding entities alone are not direct evidence of recognition of the awards beyond those entities. The only submitted evidence of wider recognition of the awards is in the form of claimed online articles which, for reasons discussed above, have no credibility or weight in this proceeding.

The falsified articles also raise doubts about the authenticity of the letters and certificates attesting to the Petitioner’s receipt of the claimed awards. *See Matter of Ho*, 19 I&N Dec. at 591. The certificate purporting to show the Petitioner’s receipt of the 2019 [redacted] Award is dated 2009. The low image resolution of submitted photographs relating to the Petitioner’s claimed awards makes it difficult to draw firm conclusions about their authenticity.

The Petitioner has not established her receipt of nationally or internationally recognized prizes or awards.

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 Petitioner submitted materials attesting to her membership in the [redacted] Academy, the [redacted] Literature Club (USA), and the [redacted] Center for Public Service and the Arts ([redacted] Center). The Petitioner did not submit any information about the membership requirements for the [redacted] Literature Club or the [redacted] Center.

A letter attributed to a fellow of the [redacted] Academy lists “certain rules to be a member of [redacted] Academy.” According to this letter, members must be citizens of Bangladesh “over 30 years old,” who have “published books” and are “endorsed by a [redacted] Academy fellow.” The Petitioner has not established that any of these requirements amount to outstanding achievements. A separate letter, attributed to the general director of the [redacted] Academy, does not discuss membership requirements but specifies that the Petitioner “has been a member of the [redacted] Academy since 1996.” The Petitioner turned 22 years old in late 1996. Therefore, this letter contradicts the claim that members “have to be over 30 years old.” The Petitioner has not established the membership requirements of the [redacted] Academy at the time she joined in 1996.

The Petitioner also submitted a photocopy of her press pass from [redacted]. The Petitioner did not establish that [redacted] is an association in the field. The pass identifies [redacted] as an “Online Newspaper & News Agency,” and states the Petitioner’s title as “Sub Editor.” This indicates that the Petitioner was an employee of a news organization, rather than a member in an association.

In response to the Director's RFE, the Petitioner submitted information about the [redacted] Academy and the [redacted] Center, but this information does not specify the membership requirements for either organization. A letter attributed to the director of the [redacted] Center includes this passage: "[The Petitioner] has greatly contributed in [sic] the cultural sector of Bangladesh. Hence, she was accepted as a member of [redacted] Center." This letter does not establish that such contributions were a requirement to become a member. The Petitioner submitted screen captures from the [redacted] Center's website, but these images do not show membership requirements.

The Petitioner's response to the RFE also included this statement: "**Bangladesh Television Playwright Association (BTPA)**: [The Petitioner] has been a member of BTPA since 2010. Membership in BTPA requires that a person must first establish herself in the country's culture and literature. **Exhibit E**." Exhibit E includes a letter attributed to the president of the BTPA. But the letter does not say that the Beneficiary is a member of the BTPA. Rather, the author of the letter described the purported membership requirements in "the cultural and literature organization named [redacted]" (GSA). The individual stated: "To be a member of [redacted] one has to be an established personnel [sic] in cultural or literature sector of Bangladesh. He/she has to be recommended by 3 renowned persons of this sector. After this initial process, we hold a 6 month evaluation period." The letter indicates that the Petitioner "completed these steps and became a member of our organization in 2010."

The author of the letter does not claim to be an official of the GSA, and the record does not contain first-hand documentation, such as the GSA's bylaws, to confirm the membership requirements or define the term "established person." Therefore, the letter does not suffice to establish that the GSA requires outstanding achievements of its members. The record does not establish what connection, if any, exists between the newly-claimed GSA and the [redacted] Literature Club (USA) named in the initial filing of the petition.

The Director determined that the Petitioner had not established that any of the Petitioner's claimed memberships require outstanding achievements. On appeal, the Petitioner describes past submissions, but the exhibits described on appeal do not meet the regulatory requirements. For example, the Petitioner describes the [redacted] Academy as "an autonomous institution funded by the government to foster Bengali language, literature, and culture." The Petitioner does not explain how these facts establish that her membership in the [redacted] Academy meets the regulatory requirements.

The Petitioner has not satisfied the requirements for this criterion.

Published material about the alien 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).

The Petitioner initially submitted copies of 13 articles from newspapers in Bangladesh, either printouts from websites or photocopies of print articles. Two articles are reviews of her writings. Three articles cover a [redacted] 2020 event in the Petitioner's honor, hosted by a New York publisher. The rest are all interviews or biographical profiles of the Petitioner, containing general information about her background, her career, and her beliefs.

In response to the RFE, the Petitioner submitted copies of three articles from [redacted] All these articles were published in 2022, more than a year after the Petitioner filed the petition in March 2021. These materials cannot establish that the Petitioner met all eligibility requirements at the time of filing the petition as required at 8 C.F.R. § 103.2(b)(1). The Petitioner also submitted some of her own published poems, which are published materials *by* her, rather than *about* her as the regulation requires.

The Director determined that the Petitioner had not established that the articles appeared in qualifying major media. But the Petitioner submitted circulation data attributed to the Information Ministry of Bangladesh, indicating that that [redacted] are “top national dailies in Bangladesh.”

Although the Petitioner has established that some of the articles appeared in major media, the published materials are deficient for other reasons.

Most of the articles are in Bengali, with English translations. Foreign-language documents must include a full English language translation which the translator has certified as complete and accurate, and the translator’s certification that he or she is competent to translate from the foreign language into English. 8 C.F.R. § 103.2(b)(3). The submitted translations do not include the required certifications.

None of the articles has an author credit as required by the regulation. The anonymity of the authors is particularly significant given the proximity of their publication – all the initially claimed articles appeared between [redacted] 2020, shortly before the Petitioner filed the petition in March 2021 – and the broad similarity of several articles to one another. The English translations of articles from [redacted] [redacted] both published the same day, are identical to one another. Both of those translations have the same basic structure as an English-language article with the same title, published days earlier in [redacted] As discussed above, other articles from [redacted] and [redacted] were published under questionable circumstances. Likewise, the translations of three articles from [redacted] 2020 – published in [redacted] [redacted] – include some identical passages.²

The published materials submitted by the Petitioner do not meet all the regulatory requirements. Apart from deficiencies such as anonymous authorship, some of the claimed articles have been falsified as set forth above, and others are highly questionable due to circumstances such as identical wording.

The Petitioner has not satisfied the requirements for 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).

² The shared language is consistent with a common source, particularly a passage that uses a first-person pronoun: “[the] President of Muktohdhara . . . told *us* ‘New York Bengalis accepted her with [sic] full of joy’” (emphasis added). Even if the articles truly appeared in the named newspapers, the unexplained use of this identical language in what purport to be three independently published newspaper articles would raise questions about the circumstances of their publication. In this case, given the submission of other falsified newspaper articles and the Petitioner’s unsatisfactory explanations for other anomalies relating to published material, the three anonymous [redacted] 2020 articles have diminished credibility.

The Petitioner claimed to satisfy this criterion because she “has contributed to Bengali literature through her six books” which “have been well received. . . . [S]he has also published poems and short stories in national-level newspapers.” The Petitioner submitted copies of published poems and photographs of book jackets.

Display at artistic exhibitions or showcases involves public showings. *See generally 6 USCIS Policy Manual F.2(B)(1)*, <https://www.uscis.gov/policy-manual>. The Petitioner has not established that there have been public showings of her work, as distinct from print publication of that work. The record does not show that the newspapers reproduced in the record are artistic exhibitions or showcases.

The Petitioner submitted photographs of herself at various gatherings, but she did not establish that any of these gatherings were showcases or exhibitions of her literary work.

In the RFE, the Director identified evidence that the Petitioner could provide to satisfy the criterion. The Petitioner’s response to the RFE did not address or mention the display criterion. Therefore, the Director concluded the Petitioner had not met the criterion.

On appeal, the Petitioner repeats the assertion that her work has been published, but the Petitioner does not explain how print publication amounts to display at an artistic showcase or exhibition. Without that information, she has not met her burden of proof to show that her evidence meets evidentiary requirements.

The Petitioner has not satisfied the requirements of this criterion.

Evidence that the alien 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).

The Petitioner submitted copies of publishing agreements and letters from publishers. Many of these documents do not specify amounts paid to the Petitioner or provide the necessary basis of comparison between the Petitioner’s remuneration and that of others in the field. Some contracts specify percentage-based royalty rates, with no indication as to whether the Petitioner’s rates were higher than others in the field. A 1999 contract with [redacted] specified weekly payments of 20,000 Bangladeshi Taka (BDT) relating to one of the Petitioner’s books. Five years later, a 2004 contract with [redacted] specified quarterly payments of 100,000 BDT for another book. Those contracts also cited percentage royalty rates. The contracts do not appear to specify whether the fixed amounts are applied against, or added to, the percentage figures.

The publisher of the newspaper [redacted] stated that the Petitioner “is one of the top paid contributor[s] of our paper.” This vague assertion is not sufficient to satisfy the criterion. The requirement is a high salary or other significantly high remuneration in relation to others in the field. The Petitioner did not establish that the range of remuneration paid to [redacted] contributors is representative of the field. In the absence of such information, being among the highest-paid writers at one newspaper is too narrow to satisfy the criterion. By the same reasoning, another letter calling the Petitioner “one of the top paid writer[s]” at [redacted] does not permit the required field-wide comparison.

Documents show that Voice of Bangladesh hired the Beneficiary “on [a] contract basis for the position of a Script Writer,” with a starting monthly salary of 20,000 BDT in 2016. An invoice from mid-2020 shows that the amount had risen to 50,000 BDT per month. The Petitioner did not provide any basis for comparison to give context to these figures.

Undated vouchers from [redacted] show three payments of 30,000 BDT each. One voucher indicated that the Petitioner consulted on “manual development on popular theatre”; the second voucher referred to “training facilitation for popular theatre training”; and the third stated that the Petitioner received a “consultancy fee for children’s book writing.” Once again, there is no basis for comparison with others in the field. Also, without more details, the vouchers do not show that the Petitioner was paid for working as a writer or poet, for other services, or some combination thereof.

In the RFE, the Director stated that the Petitioner “did not provide sufficient financial documentation (e.g., payroll records or income tax forms) demonstrating [her] actual earnings for any given period of time.” The Director requested reliable documentation of the Petitioner’s earnings in her field and evidence to show how her earnings compare to others in her field.

The Director also stated that the Petitioner “provided evidence for Bangladesh,” and needed to show that her remuneration was high “in relation to others in the field, in the United States.” We agree with the Petitioner that she need not compare her past remuneration to writers in the United States, because she earned that remuneration in Bangladesh. Nevertheless, the burden remains on the Petitioner to establish the actual amount of her remuneration and provide a reliable basis for comparison to show that her remuneration is high in relation to others in the field.

The Petitioner’s response did not include any objective documentation of her earnings. She submitted a printout of a purported [redacted] article, calling the Petitioner “[redacted] Academy’s best-selling author.” As discussed earlier in this decision, we have concluded based on the evidence that this article is not authentic. The provided web address links to a different article from three years later.

The Petitioner submitted letters attributed to four different publishers in Bangladesh. Three of the letters called the Petitioner the highest paid writer in Bangladesh; the fourth states that she is “one of the most bestseller [sic] writers of Bangladesh.” The letters are not supported by documentary evidence.

The Director denied the petition, stating that the Petitioner had not fully documented her earnings or provided an objective basis for comparison with other writers.

On appeal, the Petitioner states that her “earnings through works of literature are shown by the documents” submitted previously. As shown above, the Petitioner has provided only fragmentary documentation of her earnings, and she has not submitted any objective basis to show that those earnings are high in relation to others in the field. Letters calling her the highest-paid writer in Bangladesh have limited evidentiary value in the absence of other independent objective evidence.

The Petitioner has not satisfied the requirements of this criterion.

In light of the above conclusions, the Petitioner does not meet the initial evidentiary requirement of three criteria under 8 C.F.R. § 204.5(h)(3). Detailed discussion of the remaining claimed criterion,

concerning participation as a judge of the work of others under 8 C.F.R. § 204.5(h)(3)(iv), cannot change the outcome of this appeal. Therefore, we reserve this issue.³ For the same reason, we also reserve the issue of whether the Petitioner's entry into the United States will substantially benefit prospectively the United States.

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 conclusion 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 not shown recognition of her work at a level that shows 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 claims to be among the best-selling authors in Bangladesh, but her evidence is fragmentary and lacking in credibility, particularly given her submission of altered or falsified articles. The genuine, verifiable articles about the Petitioner all appeared within a short window of time coinciding with the Petitioner's travel to the United States and do not reflect the decades of acclaim that the Petitioner claims to have earned. Book sales are a matter of measurable, objective fact, and therefore documentary evidence ought to exist to support the claim that her books are bestsellers, but the Petitioner has not submitted such evidence.

The Petitioner has not demonstrated eligibility as an individual of extraordinary ability. We will therefore dismiss the appeal. We also find that the Petitioner has willfully misrepresented material facts relating to claimed news articles from 2019, as discussed above.

ORDER: The appeal is dismissed.

³ *See INS v. Bagamasbad*, 429 U.S. 24, 25-26 (1976) (stating that, like courts, federal agencies are not generally required to make findings and decisions unnecessary to the results they reach); *see also Matter of L-A-C-*, 26 I&N Dec. 516, 526 n.7 (BIA 2015) (declining to reach alternative issues on appeal where an applicant is otherwise ineligible).