



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

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

In Re: 28455766

Date: NOV. 28, 2023

Appeal of Texas Service Center Decision

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

The Petitioner, a dressage rider and trainer, 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 the record did not establish that the Petitioner met the initial evidence requirements for this classification by meeting at least three of the ten evidentiary criteria under 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

To establish eligibility as an individual of extraordinary ability, a petitioner (or anyone on the petitioner's behalf) must establish that they:

- Have extraordinary ability in the sciences, arts, education, business, or athletics;
- Seek to enter the United States to continue work in their area of extraordinary ability; and that
- Their entry into the United States will prospectively substantially benefit the United States.

Extraordinary ability must be demonstrated by evidence of the individual's sustained national or international acclaim, as well as extensive documentation that their achievements have been recognized in the field. Section 203(b)(1) of the Act.

The implementing regulation further states that 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." It also

sets forth a multi-part analysis. A petitioner can demonstrate international recognition of their achievements in the field through a one-time achievement (that is, a major, internationally recognized award). If such evidence is unavailable, then they must alternatively provide evidence that meets at least three of the ten listed criteria, which call for evidence about other awards they may have received, published material about them in qualifying media, and their authorship of scholarly articles, among other types of evidence. 8 C.F.R. §§ 204.5(h)(2),(3). If a petitioner can show that one or more of the evidentiary criteria are not readily applicable to their occupation, then they may submit evidence that is comparable to the required evidence.

Where a petitioner meets these initial evidence requirements, we then consider the totality of the material provided in a final merits determination, assessing whether the record shows that the individual possesses the acclaim and recognition required for this highly exclusive immigrant visa classification. *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 dressage rider who has been competing for more than 20 years, and who has also been training dressage horses and riders for several years. She intends to continue to compete in dressage events in the United States, as well as train horses and riders to compete in those events.

### A. Evidentiary Criteria

Because the Petitioner has not indicated or established 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 found that the Petitioner met two of the evidentiary criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x), relating to her receipt of nationally or internationally recognized awards in her field, and to published material about her in professional publications. On appeal, the Petitioner asserts that she also meets the evidentiary criteria relating to original contributions of major significance to her field, and a leading or critical role for organizations having a distinguished reputation in the field. After reviewing all of the evidence in the record, we conclude that she meets at least three of the evidentiary criteria.

*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 Director determined that the evidence of the Petitioner's receipt of prizes or awards received as a dressage rider, particularly the 2020 USDF [redacted] and first place at the 2021 [redacted] Dressage Festival, was sufficient to meet this criterion. While we agree that she meets this criterion as a rider, we base this conclusion on the evidence of her receipt of team and individual gold and silver medals at the [redacted] Championships in 2006 and 2007, as well as the 2007 [redacted] trophy awarded by the United States Dressage Federation.

*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 submitted several articles about her and her work as a dressage competitor that were published on websites serving the equestrian sports industry. Many of these articles, particularly those posted on the blog website eurodressage.com, did not list an author, and therefore did not meet the requirements of this criterion. Others noted that they were press releases, prepared by an organization with which the Petitioner was affiliated in order to promote the organization and its members. Such marketing materials are not generally considered to be published material about a petitioner. *See generally 6 USCIS Policy Manual F.2(B)(1), www.uscis.gov/policy-manual.* However, the Petitioner also submitted articles published on the website of *Chronicles of the Horse*, a magazine devoted to equestrian sports, which did include all of the requisite information. Based upon this evidence, we agree with the Director that the Petitioner meets 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)*

To satisfy this criterion, a petitioner must establish that not only have they made original contributions, but that those contributions have been of major significance in the field. For example, a petitioner may show that the contributions have been widely implemented throughout the field, have remarkably impacted or influenced the field, or have otherwise risen to a level of major significance. *See Visinscaia*, 4 F. Supp. 3d at 134-35.

In their decision, the Director acknowledged that the reference letters submitted by experts and others in the dressage field showed that the Petitioner has been successful as a dressage trainer, but concluded that the letters lacked specificity regarding the originality of her training methodology and its influence on the field of equestrian sports. They also noted the lack of documentary evidence in the record to substantiate the writer's statements.

On appeal, the Petitioner asserts that the reference letters include details concerning her dressage training method and its originality, and that the Director erred by not giving the letters adequate consideration. She highlights sections of several of the letters, including the one written by [redacted] a dressage judge. In describing the benefits and originality of the Petitioner's training techniques, [redacted] letter in large part restates the Petitioner's own description of her training. Notably, the letter states that the Petitioner's techniques are original through their "linkage of anatomy and biomechanics (using the science of movement) to align, balance and harmonize the rider with the movements and character of each rider's horse so that the horse/rider are an aligned/coordinated pair and by explaining how to achieve the required result so that the rider can self-sustain the correct movements." Whereas the Petitioner writes the following in her statement:

The originality of my training/schooling and coaching is centered on marrying the science of movement (biomechanics) to the specific movement pattern of each horse (as no two horses are the same such that no horse/rider combination is the same) and

biomechanically aligning the rider in the saddle with the horse's specific movement pattern to achieve a synchronized and harmonious unit when executing dressage movements.

Another letter with similar language was signed by [redacted] board member of the Dressage Foundation. Her letter includes the following sentence:

What is original and highly significant and beneficial is [the Petitioner's] ability to simultaneously ensure, (while riders are being instructed on the execution of the various dressage movements within the "scales of training") that each horse/rider pair are executing the dressage movements, with the correct biomechanical/balanced alignment such that the movement(s) being taught are, in fact, executed properly such that when the test movements are aggregated the pair's performance will be optimal.

The similarities in style and grammar in these statements are unmistakable. As a general concept, when a petitioner has provided affidavits from different persons that contribute to the eligibility claim, but the language and structure contained within the affidavits is notably similar, the trier of fact may treat those similarities as a basis for questioning a petitioner's claims.<sup>1</sup> When affidavits contain such similarities, it is reasonable to infer that the petitioner who submitted the notably similar documents is the actual source from where the suspicious similarities derive. *Cf. Mei Chai Ye v. U.S. Dept. of Justice*, 489 F.3d 517, 519 (2d Cir. 2007); *Wang v. Lynch*, 824 F.3d at 592. As a result, the letters possess significantly diminished probative value. In evaluating the evidence, the truth is to be determined not by the quantity of evidence alone but by its quality. *See Matter of Chawathe*, 25 I&N Dec. at 376 (quoting *Matter of E-M-*, 20 I&N Dec. 77, 79-80 (Comm'r 1989)). Here, the similarities between the Petitioner's statement and several of the reference letters, including [redacted] and [redacted] significantly reduces the evidentiary value of this evidence.

We also note that many of the letters incorporate language from the regulations. In addition to [redacted] statement that the Petitioner's abilities are "original and highly significant," [redacted] writes that the Petitioner's "methodology is of major significance in its originality." Repeating the language of the statute or regulations does not satisfy the petitioner's burden of proof. *Fedin Bros. Co., Ltd. v. Sava*, 724 F. Supp. 1103, 1108 (E.D.N.Y. 1989), *aff'd*, 905 F. 2d 41 (2d. Cir. 1990); *Avyr Associates, Inc. v. Meissner*, No. 95 CIV. 10729, \*1, \*5 (S.D.N.Y. Apr. 18, 1997). We also note that originality and significance are separate requirements of this criterion and must be met separately.

In addition, despite the Petitioner's claims, [redacted] letter does not provide details on how the Petitioner uses biomechanical concepts in her training, nor does it substantiate the claim that the use of biomechanical concepts in dressage training is an original contribution by the Petitioner. Rather, the letter describes the desired results of those training techniques, and arrives at the conclusion that her methodology has "accelerated the dressage learning curve particularly the progressively more

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<sup>1</sup> See *Matter of R-K-K-*, 26 I&N Dec. 658, 665 (BIA 2015); *Singh v. Garland*, No. 19-60937, 2021 WL 5984797, at \*2 (5th Cir. Dec. 17, 2021); *Surinder Singh v. Board of Immigration Appeals*, 438 F.3d 145, 148 (2d Cir. 2006); *Wang v. Lynch*, 824 F.3d 587, 592 (6th Cir. 2016); *Dehonzai v. Holder*, 650 F.3d 1, 8 (1st Cir. 2011); *Hamal v. U.S. Dep't of Homeland Security*, No. 19-2534, WL 2338316, at \*4, n.3 (D.D.C. June 8, 2021).

complex movements in the upper dressage levels as the results are proven” without describing the results to which it refers.

The reference letters all indicate that the Petitioner has the ability to draw upon her classical training and experience as a rider to develop an individualized training regimen suited for each horse. In addition, they explain that she is able to clearly communicate to dressage riders that she trains how their own movements and positioning affect their horse’s movements. While each such training can be considered to be unique to that horse and rider, as is stressed by the Petitioner, the letters do not establish that she has created an original method of training that has contributed to the broader dressage or equestrian community. Nor do they show that the results of her training have been so impactful that they have been of major significance to the field. [redacted] founder of an equestrian training facility and the father of one of the Petitioner’s trainees, writes that several of his students, including his daughter, have had significant improvements in their performances and results. [redacted] a rider who competes in show jumping at the international level, explains that the Petitioner has helped to train her horses, and that she has seen her competition results improve as a direct result. Similarly, [redacted] an experienced equestrian who has been training with the Petitioner for six months, explains that the Petitioner was highly recommended to her, that the Petitioner has improved the conditioning of her horse, and that the Petitioner clearly explains how to improve her riding. Beyond the reference letters, an article on the eurodressage.com website dated [redacted] 2014 notes that the Petitioner coached a rider who placed fourth and sixth at a national competition in [redacted] Florida. While this evidence shows that the Petitioner has contributed to the advancement of individual riders and horses under her tutelage, it does not establish that she has made a contribution of major significance to the overall field of equestrian sports, or more specifically dressage.

The Petitioner also asserts on appeal that the Director should have considered her claim under 8 C.F.R. § 204.5(h)(4) that because there is no tangible proof of her training method, the reference letters analyzed above should be considered as comparable evidence. This argument was initially made in response to the Director’s RFE, which states that “generally, an original contribution is research, techniques, inventions, or other intellectual property that the petitioner created and developed.” While those types of documents may be submitted to show the originality of a claimed contribution by some petitioners, they are not applicable to all fields or all individuals seeking classification as individuals of extraordinary ability as the Director’s statement suggests. The plain language of the regulations does not specify or limit the type of evidence that may be submitted in support of this criterion. However, for that same reason, the comparable evidence provision is itself not readily applicable to this criterion. Further, claims that reference letters should be accepted as comparable evidence, as the Petitioner does here, are generally not persuasive. We have instead considered those reference letters under the plain language of this criterion, as described above.

For all of the reasons provided above, we agree with the Director’s conclusion that the Petitioner has not established that she meets 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)*

To meet this criterion, a petitioner must first establish that they have performed in either a leading or critical role for an organization or establishment. Evidence of a leading role should demonstrate that

the petitioner was a leader within the organization or establishment, or a division or department thereof. For a critical role, the evidence must show that the petitioner has contributed in a way that is of significant importance to the outcome of the organization's or establishment's activities.

Second, the petitioner must establish that the organization or establishment for which they hold or held a qualifying role has a distinguished reputation. This may include, but is not limited to, the evaluation of factors such as the size and longevity of the establishment (but not exclusively), the scale of its customer base, and relevant media coverage. *See generally 6 USCIS Policy Manual F.2(B)(1), www.uscis.gov/policy-manual.*

The Director determined that the Petitioner's role for [redacted] was leading or critical, but did not specify which applied to her role. The only evidence submitted in support of this aspect of the Petitioner's claim was a letter from [redacted] the company's owner. He explains that the role played by the Petitioner in selecting young horses and training them for dressage competition at the highest levels is critical to the success of his company, and cites the example of one particular horse ([redacted] [redacted] trained by her which was recognized as the top seven-year-old dressage horse in the United States. As such, we agree that the Petitioner has established that her role with [redacted] is (or was) critical.

Turning to the second element of this criterion, the distinguished reputation of [redacted] the Director determined that the evidence was insufficient. On appeal, the Petitioner argues that the reputation of [redacted] should be judged by the success of its owner and namesake, [redacted]. However, the record shows that [redacted] is engaged not just in supporting the owner's career as a dressage competitor, but also offers rider and horse training and horse sales services. Therefore, its overall reputation in all of these activities will determine whether it has achieved distinction when compared to other such companies.

Turning first to the evidence of [redacted] success as a dressage rider, this consists of his own letter, pages from his company's website, and articles about him. Other than providing facts about himself and his company that he wishes to be considered, the letter has minimal weight in demonstrating that [redacted] has a distinguished reputation, as reputation is the perception of others in the equestrian sports field. [redacted] writes that as a dressage competitor, he was selected to represent the U.S. at the 2019 [redacted] Games, but was forced to withdraw after his horse sustained an injury. This is confirmed by an interview of him published on the website of *Sidelines* magazine on [redacted] 2020. This and other articles confirm his wins at the Intermediate and Grand Prix levels, including national championships at the Intermediate level in 2019 and 2020.

The record also shows that in addition to the success in training [redacted] [redacted] have also won U.S. young horse championships with other horses. In addition, he has coached riders that have had national success in the Young Rider and Grand Prix divisions. The totality of this evidence shows that [redacted] enjoys a distinguished reputation in the dressage field at the national level. We therefore disagree with the Director and conclude that the Petitioner meets this criterion.

## B. Final Merits Determination

The Petitioner has established that she meets at least three of the evidentiary criteria, so we will move on to the next part of the adjudication: the final merits determination. In a final merits determination, we examine and weigh the totality of the evidence to determine whether the petitioner has sustained national or international acclaim and is one of the small percentage at the very top of the field of endeavor, and that their achievements have been recognized in the field through extensive documentation. Here, the Petitioner has not offered sufficient evidence that she meets that standard.

As extraordinary ability is an elite level of accomplishment whose recognition necessarily entails a judgement call, it cannot be established through meeting at least three of the evidentiary criteria alone. The final merits determination is the ultimate statutory inquiry of whether the applicant has extraordinary ability as demonstrated by sustained national or international acclaim. *Amin v. Mayorkas*, 24 F.4th 383, at 395 (2022).

As noted above, the Petitioner intends to remain in the United States to continue competing in dressage tournaments and events, while also continuing to train dressage riders and horses. In general, competitive athletics and coaching are not in the same area of expertise, as they rely upon different sets of skills. *Lee v. Ziglar*, 237 F. Supp. 2d 914, 917-8 (N.D. Ill. 2002). However, we acknowledge that many extraordinary athletes have gone on to become extraordinary coaches. Therefore, where a petitioner has established recent national or international acclaim as an athlete and has sustained that acclaim as a coach, we may consider the totality of the evidence as establishing an overall pattern of sustained acclaim and extraordinary ability. *See generally* 6 *USCIS Policy Manual* F.2(A)(2), [www.uscis.gov/policy-manual](http://www.uscis.gov/policy-manual).

As we acknowledged above when considering the Petitioner's lesser awards as a dressage competitor, she attained international success when competing at the Young Rider level. Her team and individual awards in 2006 also led to her selection to represent Canada at the [redacted] Final, where she finished fourth overall out of twelve international competitors. However, the record does not show that she has sustained the same level of competition success since at the top Grand Prix level or in national and international competition. This evidence includes a certificate showing that the Petitioner was awarded with the 2020 [redacted] by the United States Dressage Federation "for achievement at: Intermediate I and/or Intermediate II and Grand Prix," as well as a Silver Medal for the same at the fourth level and [redacted]. But the certificates are not accompanied by an explanation of their significance or the criteria by which they were awarded, and are thus of marginal evidentiary value in showing the Petitioner's standing or acclaim as a competitor in her field.

In addition, the Petitioner states that she has competed in over 60 dressage events since 2014, and lists several first place results in dressage competitions at the Grand Prix and [redacted] levels. However, the record lacks documentary evidence of most of these awards, with only a few being mentioned in articles on equestrian sports websites. Further, even if all of the awards were supported by documentary evidence, the record also lacks evidence showing that these wins, individually or cumulatively, help to show sustained acclaim or place the Petitioner at or near the top of her field as a dressage competitor. To the contrary, an article from the [eurodressage.com](http://eurodressage.com) website dated [redacted] [redacted] 2017 that reports on the 2017 [redacted] qualifier in [redacted] North Carolina notes the Petitioner's Grand Prix win, but also that the competition "was unable to draw North American top riders."

Although the editor-in-chief of the eurodressage.com website writes in her letter that the Petitioner “is one of the best dressage riders in the history of the sport,” this article from the website clearly undermines that assessment. We also note that while the Petitioner’s win at the 2017 [redacted] [redacted] qualifier was also reported on other websites focused on equestrian sports, the record does not include media reports on any of the Petitioner’s more recent claimed wins. Further, the record shows that the frequency of media articles reporting on her competition results drops dramatically from the time of her early career to more recent years, with the article noted above and others commenting on her absence from the top levels of competition and aspirations to greater achievements. While we acknowledge that the COVID-19 pandemic affected equestrian competitions as it did many other sports, the totality of the record does not establish that the Petitioner has enjoyed sustained acclaim at the national or international level as a dressage competitor, or that she is one of the small percentage of dressage competitors at the top of that field.

Turning to the Petitioner’s work as a dressage trainer, we have considered the reference letters submitted by her colleagues, employers, trainers and clients when determining the originality and significance of her training methods above. As we noted, this evidence was not sufficient to show that she has established an original method of training that has impacted or influenced the dressage or equestrian sports field to the required extent. In addition, the record shows that the Petitioner has trained riders who have gone on to have some success. Specifically, [redacted] noted that two of his own students, including his daughter, “obtained top of class scores due to [the Petitioner’s] coaching.” Others, such [redacted] note the improvements in their horses under the Petitioner’s training. And as previously noted, she submitted a single published article regarding one of her trainee’s fourth and sixth place finishes in a national competition. While this evidence shows that her expertise is appreciated by her clients and has led to general improvements in both theirs and their horses dressage performance, it does not demonstrate that she has been recognized for her efforts as a trainer at the national or international level.

Other evidence in the record is more specific regarding her acclaim and standing as a dressage trainer, particularly relating to her work at [redacted]. We acknowledge that her position with this company demonstrates that her expertise in dressage training has been acknowledged by her employer, an organization which has attained some level of distinction in the dressage community. This is demonstrated through the evidence of her work with [redacted] who was ranked as a top young dressage horse in the United States. However, despite the submission of several articles which focus on the success of [redacted] we note that none of these articles mention the Petitioner and her contribution to his training as a dressage horse. While she has worked for several years as a trainer of dressage horses and riders, the evidence is insufficient to show that she has enjoyed sustained acclaim for this work or that she is one of the small percentage at the top of this field.

Considering the totality of the evidence and the Petitioner’s arguments on appeal, we conclude that she has not established that she meets the elite standards to be classified as a dressage competitor and trainer of extraordinary ability.

### III. CONCLUSION

The Petitioner seeks a highly restrictive visa classification, intended for individuals already at the top of their respective fields, rather than for those progressing toward the top. USCIS 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 that the significance of her 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 national or international acclaim in the field, and that she is one of the small percentage who have 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 record indicates that the Petitioner is currently in the United States in O-1 nonimmigrant status. Although we acknowledge that this status relates to extraordinary ability, the record of proceeding for the approved nonimmigrant petition is not before us, and we cannot determine whether the facts in that case were the same as those in the present proceeding. Further, the prior approval does not preclude USCIS from denying an immigrant visa petition which is adjudicated based on a different standard - statute, regulations, and case law. Even if a service center director has approved a nonimmigrant petition on behalf of an individual, we are not bound to follow that finding in the adjudication of another immigration petition. *See La. Philharmonic Orchestra v. INS*, No. 98-2855, 2000 WL 282785, at \*2 (E.D. La. 2000).

**ORDER:** The appeal is dismissed.