



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

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

In Re: 28111586

Date: SEP. 19, 2023

Appeal of Nebraska Service Center Decision

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

The Petitioner specializes in photographing babies and seeks classification under the employment-based, first-preference (EB-1) immigrant visa category as a noncitizen with “extraordinary ability.” See Immigration and Nationality Act (the Act) section 203(b)(1)(A), 8 U.S.C. § 1153(b)(1)(A). Noncitizens may obtain U.S. permanent residence in this category if they demonstrate sustained national or international acclaim and, through extensive documentation, recognition of their achievements in their fields of expertise. *Id.*

The Director of the Nebraska Service Center denied the petition. The Director concluded that the Petitioner met two of ten initial evidentiary criteria - one less than required. On appeal, the Petitioner contends that she also meets two additional requirements: receipt of internationally recognized prizes or awards in the field; and display of her work at artistic exhibitions or showcases.

The Petitioner bears the burden of demonstrating eligibility for the requested benefit by a preponderance of the evidence. *Matter of Ho*, 19 I&N Dec. 582, 589 (BIA 1988) (citation omitted). Exercising de novo appellate review, see *Matter of Christo’s, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015), we conclude that she has established her receipt of internationally recognized awards in the field. We will therefore withdraw the Director’s decision and remand the matter for a final merits determination and entry of a new decision.

## I. LAW

To qualify for the requested immigrant visa category, a petitioner must demonstrate that:

- They have “extraordinary ability in the sciences, arts, education, business, or athletics;”
- They seek to continue work in their field of expertise in the United States; and
- Their work would substantially benefit the country.

Section 203(b)(1)(A)(i)-(iii) of the Act.

The term “extraordinary ability” means a level of expertise commensurate with “one of that small percentage who have risen to the very top of the field of endeavor.” 8 C.F.R. § 204.5(h)(2). Evidence

of extraordinary ability must demonstrate a noncitizen's receipt of either "a major, international recognized award" or satisfaction of at least three of ten lesser evidentiary standards. 8 C.F.R. § 204.5(h)(3). If a petitioner meets either of these initial evidentiary requirements, U.S. Citizenship and Immigration Services (USCIS) then determines whether the record, as a whole, establishes sustained national or international acclaim and recognized achievements that rank a noncitizen among the small percentage at the very top of their field. *See Kazarian v. USCIS*, 596 F.3d 1115, 1119-20 (9th Cir. 2010) (requiring a two-part analysis of extraordinary ability).

## II. ANALYSIS

The Petitioner, a Russian native and citizen, is a professional photographer specializing in newborns. She was inspired by Australian photographer Anne Geddes, whose pictures of babies fascinated her as a child. She attended the International Institute of Advertising in [ ] and, after gaining experience in the fashion industry, opened her own modeling agency. She realized her childhood dream of photographing newborns after completing photography workshops, classes about children, and a course in relationship psychology. In the United States, she seeks to continue her work as a newborn photographer.

The Petitioner has not established her receipt of a major, internationally recognized award. *See* 8 C.F.R. § 204.5(h)(3). Thus, to initially qualify for the requested immigrant visa category before a final merits determination, she must satisfy at least three of the ten lesser evidentiary criteria. *See* 8 C.F.R. § 204.5(h)(3)(i)-(x). If these evidentiary standards "do not readily apply" to her occupation, she may submit "comparable evidence." *See* 8 C.F.R. § 204.5(h)(4).

The record supports the Director's finding that the Petitioner met two initial evidentiary criteria: published material about her relating to her work in the field; and evidence of her participation as a judge of others' work in the field. *See* 8 C.F.R. § 204.5(h)(3)(iii), (iv). On appeal, the Petitioner asserts that she also demonstrated her receipt of internationally recognized prizes or awards for excellence in the field and submitted evidence of her work's display at artistic exhibitions or showcases. *See* 8 C.F.R. 204.5(h)(3)(i), (vii).

### A. Receipt of Internationally Recognized Prizes or Awards

This evidentiary standard requires "[d]ocumentation 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). When assessing whether a petitioner meets this criterion, USCIS first determines whether they received prizes or awards. *See generally* 6 *USCIS Policy Manual* F.(2) App'x, [www.uscis.gov/policy-manual](http://www.uscis.gov/policy-manual). The Agency then examines whether their rewards were "in the field of endeavor" and "nationally or internationally recognized." *Id.* Considerations include: the criteria used to grant the awards or prizes; their national or international significance; the number of recipients; and any limitations on competitors. *Id.*

The Petitioner submitted evidence of several awards she received at photography competitions. The Director, however, found that most of the events occurred multiple times a year, suggesting that "the petitioner's awards are not uncommon in her field." The Director also found insufficient evidence of media coverage showing national or international recognition of her awards. The Director noted the

Petitioner's receipt of an honorable mention citation at the 2021 International Photography Awards (IPA). But the Director found that the Petitioner did not establish the number of honorable mention recipients or the category and competition level in which she received recognition.

On appeal, the Petitioner contends that the Director overlooked evidence. She states her submission of proof of *two* honorable mention citations at the 2021 IPA and the prizes' categories, competition levels, and international media coverage. The Petitioner also contends that she received prizes - including the IPA awards - in two annual competitions. Although events in which she won other awards occurred more frequently, she submitted evidence that internationally recognized judges awarded the prizes and that hundreds of photographers from around the world competed for them.

As the Petitioner argues, the record shows her receipt of two honorable mention citations at the 2021 IPA. For both prizes, the category was '[redacted]' and the competition level was "Professional." The Petitioner also submitted evidence of IPA media coverage, including a list of the competition's global corporate partners and coverage examples from newspapers, magazines, and other media around the world. The competition's website indicates that, in the Petitioner's category and level in 2021, the judges issued several honorable mention awards. *See* IPA, "Honorable Mentions," <https://photoawards.com/winner/hmention.php?compName=IPA+2021>.

The Petitioner did not win any of the top three awards in her category and level at the 2021 IPA. But, based on her two IPA honorable mention awards in the same year for two separate photos, a preponderance of the evidence demonstrates her receipt of internationally recognized awards for excellence in her field under 8 C.F.R. § 204.5(h)(3)(i). We will therefore withdraw the Director's contrary finding.

#### B. Final Merits Determination

The Petitioner has met the requisite three of ten initial evidentiary criteria for the requested immigrant visa category. We therefore need not consider whether she also demonstrated her work's display at artistic exhibitions or showcases. *See* 8 C.F.R. § 204.5(h)(3)(vii).

USCIS must now determine whether the record establishes sustained national or international acclaim and recognized achievements sufficient to place the Petitioner among the small percentage at the very top of her field. *See generally* 6 *USCIS Policy Manual* F.(2)(B)(2). The Director did not reach that finding, and we decline to make the determination in the first instance. We will therefore remand the matter. On remand, the Director should evaluate the evidence and consider the petition in its entirety to make a final merits determination.

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