



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

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

In Re: 34693081

Date: DEC. 12, 2024

Appeal of Nebraska Service Center Decision

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

The Petitioner, a retail manager, seeks first preference immigrant 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 satisfied at least three of the ten required regulatory criteria listed at 8 C.F.R. § 204.5(h)(3)(i)-(x). The matter is now before us on appeal pursuant to 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 sustained acclaim and the recognition of achievements in the field through a one-time achievement (that is, a major, internationally recognized award) or qualifying documentation that meets at least three of the ten categories 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).

## II. ANALYSIS

Because the Petitioner has not indicated or established her receipt of a major, internationally recognized award, she must satisfy at least three of the regulatory criteria. The Petitioner claims that she meets five of the regulatory criteria, namely that she had received a lesser nationally or internationally recognized award or prize, that she had participated as a judge of others work, that she made original contributions of major significance, that she has performed in a leading or critical role for a distinguished organization or establishment, and that she had a high salary or other significantly high remuneration in relation to others in the field. 8 C.F.R. § 204.5(h)(3)(i), (iv), (v), (viii), and (ix).

The Director determined that the Petitioner did not establish any of the claimed criteria. Upon de novo review, we agree with the Director’s determination.

### *Receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor*

This evidentiary standard requires “[d]ocumentation of the [noncitizen’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(B)*, <https://www.uscis.gov/policy-manual/volume-6-part-f-chapter-2>. USCIS 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 presented several work-related training certificates, a letter from her former employer, [REDACTED] stating she was chosen as Employee of the Year, and another letter stating she was the recipient of her employer’s Employee Referral Award. The Petitioner has not demonstrated that the awards she received were lesser nationally or internationally recognized awards for excellence in the field of endeavor.

In regards to the work training certificates, they reflect that they were presented for the completion of training, and therefore are not awards or prizes. Moreover, the Petitioner has not presented sufficient evidence that the remaining awards she received are lesser nationally or internationally recognized awards for excellence. In support of the criterion, the Petitioner presented two letters from her former employer. The letters explain that she received the Employee of the Year and Employee Referral awards and discuss generally the Petitioner's actions that led to her receipt of the awards but provided no further detail on the awards. The Petitioner also provided a copy of the "About" page from her former employer's website. This evidence demonstrates that the company manages a portfolio of companies across several industries but does not provide further information. The Petitioner did not present other additional evidence on the awards, such as evidence explaining the company's criteria, the awards national or international significance, the number of awardees or recipients, limitations on competitors, or similar information.

Based on the record presented there is not sufficient information on the awards to determine if they are lesser nationally or internationally recognized prized or awards. The Petitioner contends that the awards she received should be considered as having national significance as they were issued by [redacted] which she claims has "significant influence across the entire field." However, contentions require support to underpin them, as assertions themselves do not constitute evidence. *See, e.g., Matter of S-M-*, 22 I&N Dec. 49, 51 (BIA 1998) ("statements in a brief, motion, or Notice of Appeal are not evidence and thus are not entitled to any evidentiary weight"). The Petitioner's evidence is not adequate to support her arguments. As such, the Petitioner has not established the criterion.

*Participation, either individually or on a panel, as a judge of the work of others in the same or an allied field of specification for which classification is sought*

To establish this criterion, a petitioner must show that they have not only been invited to judge the work of others, but also that the petitioner actually participated in the judging of the work of others in the same or allied field of specialization. *See generally 6 USCIS Policy Manual, supra*, at F.2(B). For example, a petitioner might document the person's peer review work by submitting a copy of a request from a journal to the person to do the review, accompanied by evidence confirming that the person actually completed the review. *Id.*

The Petitioner claims that she "serve[d] as a judge at the prestigious high-profile fashion shows." To support her claim, the Petitioner presented letters from her past employer. The letters are not consistent with the Petitioner's description of her role. The letters describe how the Petitioner "[i]n this role, she was responsible for selecting models" for fashion shows as part of her employment. The Petitioner selecting models to work at fashion shows does not constitute acting as a judge of *the work of others*, in the retail or an allied field, as required under the plain language of the criterion. The Petitioner has not provided sufficient evidence to establish how this action would constitute the judging of the work of others in hers or an allied field. Therefore, the Petitioner has not established the criterion.

*Original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field*

To meet this criterion, a petitioner must submit “[e]vidence of the [noncitizen’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). USCIS first determines whether a noncitizen has made original contributions in their field. *See generally* 6 *USCIS Policy Manual, supra*, at F.2(B). If so, USCIS should then determine whether any are of “major significance.” *Id.*

Evidence of significant contributions can include published research that has provoked widespread commentary on its importance from others in the field, or documentation that research generated a high amount of citations relative to others’ work in the field. *Id.* When determining whether original contributions have major significance, detailed letters from experts in the field explaining the nature and significance of the contributions may provide valuable context, especially if accompanied by corroborating documentation. *Id.*

The appeal brief contends that the Petitioner’s work for [REDACTED] constituted a contribution of major significance. To establish this criterion, the Petitioner presented letters from her past employer explaining her roles and responsibilities during her employment. However, the evidence does not sufficiently demonstrate how the Petitioner’s work for this company was an original contribution to her field or of major significance. The roles described in the letters, such as curating relevant product collections and developing a new sales technique for her team, certainly assisted the company. Yet the letters lack further details as to how such actions were original contributions to the overall field, or of major significance. Thus, the record does not contain sufficient information to establish the criterion.

*Performed in a leading or critical role for organizations or establishments that have a distinguished reputation*

When adjudicating this requirement, USCIS first determines whether a petitioner has performed in a leading or critical role for an organization or establishment. *See generally* 6 *USCIS Policy Manual, supra*, at F.2(B). A leading role means that the person is (or was) a leader within the organization or establishment. *Id.* In contrast, a petitioner in a critical role “has contributed in a way that is of significant importance to the outcome of the organization or establishment’s activities.” *Id.* A petitioner’s role, rather than their title, determines whether their role is (or was) critical. *Id.*

Second, USCIS determines whether the organization or establishment for which a petitioner holds (or held) a leading or critical role has a distinguished reputation. *Id.* USCIS policy reflects that organizations or establishments that enjoy a distinguished reputation are “marked by eminence, distinction, or excellence.” *See generally* 6 *USCIS Policy Manual, supra*, at F.2(B) (citing to the definition of distinguished, Merriam-Webster, <https://www.merriam-webster.com/dictionary/distinguished>). The Petitioner must submit evidence satisfying both these elements to meet the plain language requirements of this criterion.

The appeal brief claims this criterion based on the Petitioner's role at [redacted] After reviewing the record, we agree with the Director that the Petitioner's role with this company was not leading or critical. In support of the criterion, the Petitioner presented letters from her former employer. While these documents explain that the Petitioner was a good employee, they do not adequately convey how the Petitioner's position as a senior sales representative was leading or critical was leading or critical to the company.

Furthermore, she has not provided sufficient evidence to demonstrate that the company has a distinguished reputation. To establish the company's reputation, the Petitioner provided several letters from employees at the company discussing the Petitioner's work and a copy of the "About" page from their website. The letters explain that the company works in retail across several different brands. The website states that the company manages a portfolio of companies across several industries. Nevertheless, this evidence does not provide further information on the company's reputation. On the record available, the Petitioner has not satisfactorily demonstrated that the company has a distinguished reputation. Thus, she has not established the criterion.

*Has commanded a high salary or other significantly high remuneration for services, in relation to others in the field*

The Petitioner presented two statements from her past employers detailing her past salaries and statistics from the Glassdoor website noting the salary for a retail manager, assistant manager, and a sales executive in Qatar. We observe that the evidence presented from Glassdoor was published after the filing of the petition. A petitioner must meet all of the eligibility requirements of the petition at the time of filing. 8 C.F.R. §§ 103.2(b)(1), (12). Moreover, the evidence does not show that the relevant salary range for the periods of employment. As such, there is not sufficient evidence to establish that the salary the Petitioner received was high compared to others in her field. As such, the Petitioner has not established the criterion.

As the Petitioner has not established that she meets at least three of the evidentiary criteria, she cannot be classified as an individual of extraordinary ability. Accordingly, we need not provide the type of final merits determination referenced in *Kazarian*, 596 F.3d at 1119-20.

### III. CONCLUSION

For the reasons discussed above, the Petitioner has not demonstrated her eligibility as an individual of extraordinary ability. The appeal will be dismissed for the above stated reasons.

**ORDER:** The appeal is dismissed.