



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

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

In Re: 33756110

Date: DEC. 18, 2024

Appeal of Nebraska Service Center Decision

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

The Petitioner, a hospital, seeks classification of the Beneficiary, a rehabilitation therapist, as an individual of extraordinary ability in the sciences. 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 meets the initial evidentiary requirements of the extraordinary ability classification. 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

An individual is eligible for the extraordinary ability classification if they have extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and their achievements have been recognized in the field through extensive documentation; they 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 prospectively the United States. Section 203(b)(1)(A) of the Act.

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 a one-time achievement (that is, a major, internationally recognized award).¹ If the petitioner does not

¹ The Petitioner does not claim, and the evidence does not establish, that the Beneficiary has a one-time achievement under 8 C.F.R. § 204.5(h)(3).

submit this evidence, then they must provide 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). The regulation at 8 C.F.R. § 204.5(h)(4) allows a petitioner to submit comparable material if they are able to demonstrate that the standards at 8 C.F.R. § 204.5(h)(3)(i)-(x) do not readily apply to the individual’s occupation.

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).

II. ANALYSIS

In its underlying filing, the Petitioner asserted that the Beneficiary meets four of the ten initial evidentiary criteria: Receipt of lesser nationally or internationally recognized prizes or awards, membership in associations which require outstanding achievements of their members, original contributions of major significance to the field, and performing in a leading or critical role for organizations or establishments with distinguished reputations. 8 C.F.R. § 204.5(h)(3)(i) – (ii), (v), and (viii). The Director concluded that the evidence did not satisfy any of these criteria, and accordingly denied the petition.

On appeal, the Petitioner submits a statement asserting that its previously-submitted evidence establishes eligibility. Upon review, we conclude that the record does not meet the required three evidentiary criteria, for the reasons below.

A. Receipt of Lesser Nationally or Internationally Recognized Prizes or Awards. 8 C.F.R. § 204.5(h)(3)(i).

The Petitioner claims that the Beneficiary meets this criterion through her receipt of a certificate of excellence in ceramics from the [redacted] art department, an art department scholarship from the [redacted] and a certification from the [redacted]

First, we note that the [redacted] certificate is not a prize or award, but a professional credential granted to the Beneficiary because she had “given satisfactory evidence of the required qualifications to be registered as an Art Therapist by this credentials Board.” We therefore will not consider this credential further. *See generally 6 USCIS Policy Manual F.2(B)(1)*, <https://www.uscis.gov/policy-manual> (stating that petitioners seeking to qualify under this criterion must first show that the person received a prize or award).

Furthermore, the regulation at 8 C.F.R. § 204.5(h)(3)(i) requires qualifying prizes to be awarded for excellence in the beneficiary’s field of endeavor. The Beneficiary is a rehabilitation therapist

specializing in art therapy. The certificate of excellence in ceramics and the art department scholarship, which are awarded to art students rather than practicing art therapists, are therefore not prizes in her field.

On appeal, the Petitioner states that the prestige of the [redacted] and the [redacted] should establish the eligibility of the prizes they confer. However, while the prestige of an awarding entity may help establish the recognition level of a prize or award, the plain language of the regulation requires a showing that the prize itself is nationally or internationally recognized as reflecting excellence in a person's field. *Id.*; see generally 6 USCIS Policy Manual, *supra*, at F.2(B)(1) (noting that "certain" awards from well-known national institutions "may" fulfill the criterion, but that adjudicators should consider factors such as the significance of an award in a person's field, the criteria used to grant the award, the number of awardees, and limitations on competitors).

Here, the record indicates that the [redacted] prize is limited to students at [redacted] who are studying ceramics with the art department. Similarly, the [redacted] scholarship is limited to fine arts students studying at [redacted] or two other colleges in the local area. While prizes which are open to members of well-known national institutions such as high-level research universities may qualify under this criterion, prizes which are limited to competitors within a certain locality or school generally do not reflect a national or international level of recognition. See generally 6 USCIS Policy Manual, *supra*, at F.2(B)(1). The Petitioner submitted documentation showing that [redacted] as a whole is an internationally recognized educational institution, but this documentation does not address the recognition level of [redacted] art department. The provided evidence therefore does not indicate that the [redacted] art department is such a well-known national institution in the Petitioner's field that its prizes may qualify for this criterion despite being limited to its students.

Finally, the record does not establish the significance of the Beneficiary's awards in her field, because there is no documentation of either the [redacted] awards being recognized by anyone outside the awarding entities. *Id.* The Petitioner has not established eligibility under this criterion.

B. Membership in Associations Which Require Outstanding Achievements of Their Members.
8 C.F.R. § 204.5(h)(3)(ii).

The Petitioner states that the Beneficiary qualifies for this criterion based on her membership in the academic honor societies Sigma Alpha Lambda and Phi Theta Kappa. However, the regulation requires a qualifying association to be in a person's field of extraordinary ability. *Id.* As noted by the Director, Sigma Alpha Lambda and Phi Theta Kappa are open to secondary school students in any field of study. There is no indication in the record that these associations are open to or intended for art therapists or rehabilitation therapists.

Furthermore, this criterion requires a qualifying association's membership to be restricted to people with outstanding achievements in their fields, as judged by recognized national or international experts in that field. *Id.* Here, the record provides no information about who determines eligibility for Sigma Alpha Lambda or Phi Theta Kappa, and indicates that membership is based on a person's undergraduate grade point average. This does not establish that joining either of these associations requires outstanding achievements in the fields of art or rehabilitative therapy as judged by nationally

or internationally recognized experts in those fields. Therefore, the Petitioner has not provided evidence meeting the membership criterion.

III. CONCLUSION

Adjudicating the Beneficiary's qualifications for the original contributions criterion and the lead or critical role criterion would, at most, result in showing her eligibility for two criteria, which is less than the required three. 8 C.F.R. § 204.5(h)(3). We therefore need not reach these issues, and will reserve them. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (stating that agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision); *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 the applicant did not otherwise meet their burden of proof).

The Petitioner has not provided the required initial evidence of either a one-time achievement or documents that meet at least three of the ten criteria at 8 C.F.R. § 204.5(h)(3), and so has not demonstrated the Beneficiary's eligibility as an individual of extraordinary ability. The petition will remain denied.

ORDER: The appeal is dismissed.