



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

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

In Re: 31108967

Date: MAY 16, 2024

Appeal of Texas Service Center Decision

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

The Petitioner seeks classification as an individual of extraordinary ability. 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 the record did not establish that the Petitioner had satisfied at least three of ten initial evidentiary criteria, as required. 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

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 may demonstrate international recognition of their achievements in the field through a one-time achievement (that is, a major, internationally recognized award). Absent such an achievement, a petitioner must provide sufficient qualifying documentation demonstrating that they meet at least three of the ten criteria listed at 8 C.F.R. § 204.5(h)(3)(i)-(x).

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

The Petitioner is a public relations (PR) specialist whose experience includes organizing promotional campaigns and events for company brands and artists in the entertainment industry. She intends to continue her work promoting artists and causes in the arts and entertainment industry in the United States.

As a preliminary matter, we acknowledge that the Petitioner previously had a O-1A petition approved, the classification reserved for nonimmigrants of extraordinary ability. Although USCIS has approved at least one O-1A nonimmigrant visa petition filed on behalf of the Petitioner, this prior approval does not preclude USCIS from denying an immigrant visa petition that does not meet evidentiary requirements. Many Form I-140 immigrant petitions are denied after USCIS approves prior nonimmigrant petitions. *See, e.g., Q Data Consulting, Inc. v. INS*, 293 F. Supp. 2d 25 (D.D.C 2003); *IKEA US v. US Dept. of Justice*, 48 F. Supp. 2d 22 (D.D.C. 1999); *Fedin Brothers Co. Ltd.*, 724 Supp. At 1103. Some nonimmigrant petitions are simply approved in error. *See Q Data Consulting, Inc. v. INS*, 293 F. Supp. 2d at 29-30; *see also Texas A&M Univ. v. Upchurch*, 99 Fed. Appx. 556, 2004 WL 1240482 (5th Cir. 2004) (finding that prior approvals do not preclude USCIS from denying an extension of the original visa based on a reassessment of the individual's qualifications).

We are not required to approve applications or petitions where eligibility has not been demonstrated merely because of prior approvals that may have been erroneous. *See, e.g., Matter of Church of Scientology Int'l*, 19 I&N Dec. 593, 597 (Comm. 1988). Agencies need not treat acknowledged errors as binding precedent. *See Sussex Engg. Ltd. v. Montgomery*, 825 F.2d 1084, 1090 (6th Cir. 1987), *cert. denied*, 485 U.S. 1008 (1988). Furthermore, our authority over the service centers is comparable to the relationship between a court of appeals and a district court. Even if a service center director has approved a nonimmigrant petition on behalf of the individual, we would not be bound to follow the contradictory decision of a service center. *See Louisiana Philharmonic Orchestra v. INS*, 248 F.3d 1139 (5th Cir. 2001) (*per curiam*).

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 Director determined that the Petitioner did not meet claimed criteria at 8 C.F.R. § 204.5(h)(3)(i), (ii), (iii), (iv), (v), (vii), (viii), or (ix). On appeal, the Petitioner does not address the Director's conclusions with regard to the criteria at (v), (vii), (viii), and (ix); we therefore consider the

issues of these criteria to be abandoned.¹ The Petitioner asserts on appeal that she meets the criteria at (i), (ii), (iii), and (iv). As more fully discussed below, we conclude that the Petitioner has not met at least three of the required criteria.

Documentation of the individual'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 initially submitted documentation of awards received by her previous employer, a public relations agency. The Director determined the Petitioner did not meet the plain language requirements of this criterion because she did not establish that she was the individual recipient of the awards. The Director further explained that the evidence demonstrated that it was the employer who received the awards, not the Petitioner, noting that the plain language of the regulation requires awards be conferred to the individual. The Director also concluded that the Petitioner did not establish that the awards were recognized nationally or internationally. Although the record initially referenced awards from several entities granted to the agency and inferred a connection between the awards and the Petitioner's work, on appeal, the Petitioner only discusses awards received from the Bulgarian Association of PR Agencies, or BAPRA. While the Petitioner acknowledges the USCIS Policy Manual's guidance² that the regulation requires prizes or awards to be received by an individual, rather than an employer, the Petitioner reasserts her contention that she was the "actual recipient" of the awards because a letter from her previous employer characterizes her as the "de facto recipient." The Petitioner points to a letter from the agency's director of administrative, legal, and financial affairs discussing the BAPRA Bright Awards received by the agency stating the following:

The BAPRA Bright Awards are the only internationally recognized PR awards in Bulgaria and award excellence in PR. However, they are not given to individuals even though it is the individual PR specialist who leads a certain campaign who is the real winner

I would therefore like to expressly confirm that the BAPRA Bright Awards won . . . were awarded to our company only due to [the Petitioner's] work. Her results and leadership are the reason why [the company] won these PR awards and numerous other recognitions and are a direct result of the projects she managed, including the most prestigious—[redacted]—a category based on the overall success of the projects of the company for the previous year.

While we acknowledge the agency's assertions regarding the Petitioner's positive role while employed by the company, her former employer is not the awarding organization. On appeal, the Petitioner cites a letter she initially submitted from BAPRA describing its award issuance process. The letter specifies the following (quoted as written):

¹ An issue not raised on appeal is waived. *See, e.g., Matter of O-R-E-*, 28 I&N Dec. 330, 336 n.5 (BIA 2021) (citing *Matter of R-A-M-*, I&N Dec. 657, 658 n.2 (BIA 2012)).

² *See generally* 6 USCIS Policy Manual F.2(B)(1), <https://www.uscis.gov/policy-manual/volume-6-part-f-chapter-2>.

BAPRA doesn't accept individual submissions from Publicists who are not employed by a PR firm or an internal PR department. BAPRA only accepts entries from registered firms in the field of PR, Marketing, Advertising and in-house PR teams within corporations, based in Bulgaria.

The letter from BAPRA does not specify whether the association assesses the impact of any individual's role in an agency's receipt of a particular award. However, the statement above does appear to indicate that it would accept an individual submission for an award from a publicist employed by a PR firm, but here, there is little indication from the submitted evidence that the discussed awards from BAPRA were individually awarded to the Petitioner. Involvement in an award-winning campaign does not necessarily reflect the awarding entity's intention to award an individual participant. The Petitioner has not submitted evidence or statements from BAPRA to confirm that her contributions to her previous employer's campaigns weighed significantly on the selection of the award recipients, such that the awards constituted recognition of her individual excellence in her field.

With regard to whether the awards are nationally or internationally recognized, the Petitioner emphasizes evidence previously submitted from BAPRA discussing the judging process for administering awards and public information about the awards. The Petitioner asserts that this "affirm[s] their national and international reputation." The Petitioner submitted several brief articles from websites listing BAPRA award winners. The record contains little objective evidence to demonstrate that the awards are nationally or internationally recognized. The Petitioner must support her assertions with relevant, probative, and credible evidence. *See Matter of Chawathe*, 25 I&N Dec. at 376.

As such, the Petitioner has not met the requirements for this criterion.

Documentation of the individual'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 Director determined that the Petitioner did not meet the requirements of this criterion because she did not submit objective evidence to demonstrate that she was a member of organizations requiring outstanding achievements as judged by recognized national or international experts in her field. On appeal, the Petitioner asserts that the provided evidence establishes her qualification under this criterion—specifically her membership in the Bulgarian Public Relations Association (BPRRA). A letter from the BPRRA confirms the Petitioner's membership, adding, "All our members are established professionals with [a] proven record of successful projects and impactful careers." The letter provides the following membership criteria:

- Experience: A minimum of 5 years of relevant work in public relations or related fields demonstrating a track record of outstanding achievements in PR—working on diverse campaigns, projects, or clients to showcase versatility.
- Demonstrated success in planning and executing effective PR campaigns that achieved measurable and impressive results in the Public Relations Sector in Bulgaria.

- A portfolio of communications projects, showcasing creativity, strategic thinking, and influence.
- Current occupation—the current employment of the potential member must be in the field of PR, Marketing, or a related field. If the occupation changes to a different field unrelated to PR, the member must inform the Board and the Board saves the right to end the membership.
- Recommendation letter by a member of the Bulgarian Public Relations Association.

On appeal, the Petitioner contends that the Director “overlook[ed] the substantive details provided” in this letter concerning “the high standards and achievements required for membership.” However, the letter does not articulate what BPRA considers to be “outstanding” or how such achievements are assessed. A copy of the BPRA’s bylaws provides additional information concerning membership, including requirements related to a code of ethics and a membership fee; the bylaws do not, however, describe what achievements are recognized or how they are evaluated to be “outstanding.” While the letter lists the board members present when the Petitioner was granted membership and the record includes additional documentation demonstrating that they are nationally recognized experts in their fields, neither the letter nor the bylaws sufficiently establish the requirements for outstanding achievements, as opposed to merely requiring a record of success in an applicant’s field.

The Petitioner further discussed additional evidence of memberships she claimed qualify her under this criterion, including an email and a welcome letter from the Music Business Association (also referred to as Music Biz) which reference her membership application and payment. Another provided email from Music Biz states, “Members are reviewed by our Board of Directors and are officially approved at quarterly meetings. Criteria is that your [sic] involved in the business of music in some way.” The Petitioner also submitted documentation from the Public Relations and Communications Association (PRCA), describing itself as “the world’s largest professional PR body” and stating that membership requires an application and an annual fee. In addition, the Petitioner provided a letter from the International Music Managers Forum (IMMF) stating the following (quoted as written):

This is to confirm that [the Petitioner] in her capacity of an Artist Relations Manager and CEO of Music PR and Artist Management company [redacted] is the founder of [redacted] which is a member of the global umbrella organisation – **International Music managers Forum (IMMF)**.

However, the submitted letters and evidence related to the Petitioner’s membership in additional organizations does not demonstrate that these entities require outstanding achievements by prospective members as judged by nationally or internationally recognized experts in the field. The Petitioner has not established that any of the organizations of which she was or is currently a member require outstanding achievements in one’s field for membership. As such, the Petitioner has not met the requirements of this criterion.

Published material about the individual in professional or major trade publications or other major media, relating to the individual’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 letters from radio stations attesting to having interviewed the Petitioner on several occasions during segments related to the music industry and lifestyle events. She also submitted an online news article in which she was interviewed about a music industry scandal linked to Bulgaria. The Director issued a request for evidence (RFE) requesting transcripts of the radio interviews and evidence identifying the author of the internet article. In response the RFE, the Petitioner stated that the radio shows were not recorded and emphasized the details provided in the letters of support that recalled the interviews and the topics discussed. The Director concluded that the Petitioner did not meet the requirements of this criterion because she did not submit transcripts of asserted radio interviews she was involved in, nor did she demonstrate that an article in which she was interviewed was from a major publication. On appeal, the Petitioner asserts that USCIS “erred” in its determination and “did not properly consider the totality of the evidence submitted pertaining to major media and/or professional/trade publications.” The Petitioner, however, does not specify how the Director erred or what factors in the decision were erroneous.³

The Petitioner emphasizes that her radio interviews and the news article, titled [REDACTED] [REDACTED] was related to her work in her field and that this was more than sufficient to satisfy this criterion. The Petitioner, however, did not identify the author of the online news article, as required by the plain language of the criterion. She provided web traffic data for the article’s website but did not indicate or document how that data established the website as a major media publication. Further, the Petitioner did not provide supporting evidence demonstrating that the radio interviews took place or establishing their content. The Petitioner submitted articles from major media publications that covered events and projects she was involved in planning; however, as the Director noted in the decision, these articles were not specifically about the Petitioner or her work, but concerned topics related to these events, such as the causes they promoted or the celebrities that they featured. As such, the Petitioner has not met her burden of proof to meet the requirements of this criterion.

Evidence of the individual’s participation, either individually or on a panel, as a judge of the work of others in the same or an allied field of specialization for which classification is sought. 8 C.F.R. § 204.5(h)(3)(iv).

The Petitioner submitted correspondence and supporting documentation from several entities for whom she judged the work of candidates in artistic fields. The Director determined that the Petitioner did not meet this criterion because the work she judged was not created by “other public relations specialists or others in an allied field.” On appeal, the Petitioner contends that these individuals and their work fall within the definition of allied fields. She provides the following:

Her judging responsibilities . . . required her to evaluate communication strategies, marketability, and public relations potential for projects. **These aspects are integral to the field of public relations and demonstrate her expertise and influence in areas directly related to her primary field of work.** The letter from the Secretary General of the French Institute in the US substantiates this by highlighting that while

³ An appeal must specifically identify any erroneous conclusion of law or statement of fact in the unfavorable decision. See 8 C.F.R. § 103.3(a)(1)(v).

[the Petitioner] did not judge PR specialists directly, her role involved critical assessment of elements that **are fundamental to public relations**. This aligns with the broader interpretation of “allied fields,” where her skills and knowledge in public relations are directly applicable and influential in the judging process.

Moreover, the letter . . . **explicitly states that her judging role was in an allied field of PR,** as it involved evaluation communication strategies, marketability, and the public relations potential of projects. [Emphasis in the original.]

The record includes documentation that provides information about the artistic forums in which the Petitioner was invited as a judge. The Petitioner also submitted letters from individuals overseeing these events detailing the reasons the Petitioner was chosen as a judge. The record further includes documentation showing the specialties of other judges chosen to participate and reflecting these specialties and the nature of the competitions centering on art, music, and entertainment. The Petitioner also provided sufficient evidence demonstrating that she specializes in public relations in the arts and entertainment industry. Therefore, we conclude that the Petitioner has satisfied this criterion.

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 record indicates that the Petitioner has engaged in successful campaigns for some high-profile clients, but it does not show that this success has translated into individual recognition for the Petitioner at a level that rises to 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 has not demonstrated eligibility as an individual of extraordinary ability. The appeal will be dismissed for the above stated reasons.

ORDER: The appeal is dismissed.