



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

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

In Re: 34815255

Date: NOV. 25, 2024

Appeal of Texas Service Center Decision

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

The Petitioner, a beautician and eyelash artist, seeks 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 Texas Service Center denied the petition, concluding that although the Petitioner satisfied at least three of the initial evidentiary criteria, as required, she did not show her sustained national or international acclaim and demonstrate she is among the small percentage at the very top of the field of endeavor. 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

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); *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

A. Evidentiary Criteria

Because the Petitioner has not claimed or established her receipt of 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 the Petitioner met at least three of the claimed evidentiary criteria. However, the Director concluded the Petitioner did not show she garnered sustained national or international acclaim and her achievements have been recognized in the field of endeavor, demonstrating she is one of that small percentage who has risen to the very top of the field.

On appeal, the Petitioner argues her satisfaction of additional criteria, and the evidence in the aggregate establishes her eligibility as an individual of extraordinary ability. Because the Petitioner has already shown that she fulfills the minimum requirements of at least three criteria, we will evaluate the totality of the evidence based on the documentation presented to the Director in the context of the final merits determination below.¹

B. Final Merits Determination

As indicated above, we will evaluate whether the Petitioner has demonstrated, by a preponderance of the evidence, her sustained national or international acclaim,² she is one of the small percentage at the very top of the field of endeavor, and her achievements have been recognized in the field through extensive documentation. In a final merits determination, we analyze an individual’s accomplishments and weigh the totality of the evidence to determine if her successes are sufficient to demonstrate that she has extraordinary ability in the field of endeavor. *See* section 203(b)(1)(A)(i) of

¹ *See* 6 *USCIS Policy Manual* F.2(B)(2), <https://www.uscis.gov/policymanual>.

² *See* 6 *USCIS Policy Manual*, *supra*, at F.2(A)(1) (stating that such acclaim must be maintained and providing *Black's Law Dictionary's* definition of “sustain” is “to support or maintain, especially over a long period of time . . . To persist in making (an effort) over a long period of time”).

the Act; 8 C.F.R. § 204.5(h)(2), (3); *see also Kazarian*, 596 F.3d at 1119-20.³ In this matter, we determine the Petitioner has not shown her eligibility.

According to the Petitioner's initial cover letter:

[The Petitioner's] reputation is demonstrated by her specialized professional experience and, most notably, her proven success in creating remarkable novel approaches and application of modern methods in Eyelash Styling and Beauty Business. [The Petitioner's] combined extensive experience in her field and unique and creative talent certainly qualify her as a[n] Eyelash Styling Artist with extraordinary ability, one that will highly benefit the United States and the field of Arts, Eyelash Styling, and Beauty Business as a whole.

As discussed further below, the Petitioner has received awards, been accredited by an association, experienced some press coverage, conducted review work, made contributions, authored material, founded and operated a beauty studio and school, and earned a salary for her work. However, in considering the totality of the evidence, the Petitioner has not demonstrated that her achievements are reflective of a "career of acclaimed work in the field" as contemplated by Congress. H.R. Rep. No. 101-723, 59 (Sept. 19, 1990). Furthermore, the Petitioner has not shown that she has risen to that small percentage at the very top of the field of endeavor. *See* 8 C.F.R. § 204.5(h)(3). The commentary for the proposed regulations implementing section 203(b)(1)(A)(i) of the Act provides that the "intent of Congress that a very high standard be set for aliens of extraordinary ability is reflected in this regulation by requiring the petitioner to present more extensive documentation than that required" for lesser classifications. 56 Fed. Reg. 30703, 30704 (July 5, 1991). Here, the Petitioner has not established that she enjoys a career that meets this very high standard.

The Petitioner provided evidence reflecting her receipt of 10 awards received from five competitions from 2023, within a year of the filing of the petition. Although the awards may show some recent recognition of her work from the field, the Petitioner did not demonstrate how they indicate sustained national or international acclaim or a career of acclaimed work in the field. While the Petitioner submitted letters confirming her receipt of the awards and background information about the competitions, the Petitioner did not establish that she received awards indicative of the upper echelon in the field. Here, the Petitioner did not show the significance of the awards and how they place her among that small percentage at the very top of the field. USCIS has long held that even athletes performing at the major league level do not automatically meet the statutory standards for classification as an individual of "extraordinary ability." *Matter of Price*, 20 I&N Dec. 953, 954 (Assoc. Comm'r 1994).

Furthermore, the Petitioner provided evidence of her membership and "qualification as a Trainer, with the right to teach accreditation course" with the International Association of Judges Lash and Brown Industry (IAJLBI) in January 2023. However, the Petitioner did not show how her recent membership or accreditation resulted in sustained national or international acclaim or a career of acclaimed work.

³ *See* 6 USCIS Policy Manual, *supra*, at F.2(B)(2) (instructing that USCIS officers should consider the petition in its entirety to determine eligibility according to the standard – sustained national or international acclaim and the achievements have been recognized in the field of expertise, indicating that the person is one of that small percentage who has risen to the very top of the field of endeavor).

Moreover, the Petitioner did not demonstrate how her accreditation by IAJLBI reflects that small percentage who has risen to the very top of the field of endeavor. The record, for instance, does not contain evidence indicating that she received national or international recognition based on her accreditation by this association. In addition, the Petitioner did not establish that she has distinguished herself from others in the field based on her membership or accreditation by IAJLBI, gaining national or international attention or placing her among the upper echelon in her field.

Regarding media coverage, the Petitioner offered nine articles published in 2023, which includes an article published in *Forbes Woman* (Kazakhstan). While the published material indicates some recent attention to her and her work, the Petitioner did not establish that such reporting is consistent with a level of success among that small percentage who has risen to the very top of the field of endeavor, has achieved sustained national or international acclaim, or has a career of acclaimed work. The Petitioner, for instance, did not show how the amount of her media coverage compares to others in her field who are among the very top. Again, the Petitioner did not demonstrate how her nominal press coverage reflects a career of acclaimed work in the field or a very high standard to present more extensive documentation than that required.

Likewise, relating to the Petitioner's service as a judge of the work of others, an evaluation of the significance of her experience is appropriate to determine if such evidence indicates the required extraordinary ability for this highly restrictive classification. *See Kazarian*, 596 F. 3d at 1121-22. The Petitioner judged three championships in 2023. However, the Petitioner did not establish that these three recent judging instances contributed to a finding that she has a career of acclaimed work in the field or indicative of the required sustained national or international acclaim.

The Petitioner did not show, for example, how her judging experience compares to others at the very top of the field. In addition, the Petitioner did not establish, for instance, that she garnered wide attention from the field based on her evaluation work. Moreover, serving on a jury on three occasions does not automatically demonstrate that an individual has extraordinary ability and sustained national or international acclaim at the very top of her field. Without evidence that sets the Petitioner apart from others in her field, such as evidence that she has a consistent history of reviewing or judging recognized, acclaimed experts in her field, the Petitioner has not shown that her narrow judging experience places her among that small percentage who has risen to the very top of the field of endeavor.

Likewise, authorship and publication do not automatically place one at the top of the field. The record reflects the Petitioner presented evidence showing that she published six articles in 2023, and two training guides. However, the Petitioner did not demonstrate that her recent publication record is consistent with having a career of acclaimed work, sustaining national or international acclaim, and being among the small percentage at the very top of her field. The Petitioner, for instance, did not show the significance of her authorship or how her publication record compares to others who are viewed to be at the very top of the field.

In addition, the citation history or other evidence of the influence of written work can be an indicator to determine the impact and recognition that her publications have had on the field and whether such influence has been sustained. For example, numerous independent citations for an article authored by the Petitioner may provide solid evidence that his work has been recognized and that others have been

influenced by his work. Such an analysis at the final merits determination stage is appropriate pursuant to *Kazarian*, 596 F. 3d at 1122. Although she provided delivery agreements reflecting two parties purchasing her books, the Petitioner did not demonstrate that her training guides received a level of interest in the field commensurate with sustained national or international acclaim or a career of acclaimed work. Further, the Petitioner did not show the impact or influence of her other written materials have had on the field or otherwise show the significance or relevance of her publications.

Moreover, the Petitioner provided recommendation letters generally praising her and her work. For instance, M-B- stated:

[The Petitioner] stands as an illustrious figure in the ever-evolving landscape of the beauty industry, particularly renowned for her expertise in lash artistry. Her influence extends far and wide, not only in the CIS countries but also across borders, making her as a global luminary in the realm of lash extensions. As the founder of the prestigious [beauty studio and school] in Kazakhstan, she has left an indelible mark on the industry, defining trends and setting new standards.

Also, T-K- stated:

. . . [The Petitioner's] contribution to the beauty industry is invaluable. Thanks to her scientific and methodological manuals on eyelash extensions . . . [the Petitioner] significantly influenced the development of this industry. We ourselves, at our school, use her books to teach novice masters, and note their uniqueness and practical value.

Here, the letters do not further elaborate and provide detailed information explaining how “she has left an indelible mark on the industry” or “significantly influenced the development of this industry.”⁴ In addition, the letters do not contain sufficient information and explanation to show that she is viewed by the overall field, rather than by a solicited few, among the upper echelon or that she has garnered recognition on a national or international scale, consistent with being among the small percentage at the very top of the field of endeavor. Although the letters highlight the Petitioner's talents, they do not reflect a career of acclaimed work in the field, garnering the required sustained national or international acclaim.

Regarding her business, the Petitioner claimed that “the school has successfully assisted around 100 graduates in Russia and Kazakhstan, fostering a community of skilled professionals.” While the Petitioner provided photographs of her students completing her courses and pointed to the previously discussed media articles, in which only a few discuss her studio or school, the Petitioner did not establish that her business received widespread acclaim from the field, drew significant attention from the greater field, or the overall field views her business to be among the leading beauty studios or schools in the field. Furthermore, the Petitioner did not show that she attracted a level of attention from owning and operating her business that places her among that small percentage at the very top of the field or enjoys a career of acclaimed work.

⁴ Although we discuss a sampling of letters, we have reviewed and considered all of the letters contained in the record.

Finally, although the Petitioner documented her income as an entrepreneur of her beauty salon since 2019, the Petitioner did not establish that she commanded earnings commensurate with sustained national or international acclaim. The Petitioner did not show that her wages are tantamount to an individual who is among that small percentage at the very top of the field of endeavor. She did not demonstrate, for example, how her earnings compare to others at the very top of the field or other renowned beauty salon owners,⁵ or that she received notoriety or attention based on her profits or salary separating herself from others in the field or placing her in the upper echelon.

The record as a whole, including the evidence discussed above, does not establish the Petitioner's eligibility for the benefit sought.⁶ Here, the Petitioner seeks a highly restrictive visa classification, intended for individuals already at the top of their respective fields, rather than those progressing toward the top. *Price*, 20 I&N Dec. at 954 (concluding that even major league level athletes do not automatically meet the statutory standards for classification as an individual of "extraordinary ability,"); *Visinscaia*, 4 F. Supp. 3d at 131 (internal quotation marks omitted) (finding that the extraordinary ability designation is "extremely restrictive by design,"); *Hamal v. Dep't of Homeland Sec. (Hamal II)*, No. 19-cv-2534, 2021 WL 2338316, at *5 (D.D.C. June 8, 2021), *aff'd*, 2023 WL 1156801 (D.C. Cir. Jan. 31, 2023) (determining that EB-1 visas are "reserved for a very small percentage of prospective immigrants"). *See also Hamal v. Dep't of Homeland Sec. (Hamal I)*, No. 19-cv-2534, 2020 WL 2934954, at *1 (D.D.C. June 3, 2020) (citing *Kazarian*, 596 at 1122 (upholding denial of petition of a published theoretical physicist specializing in non-Einsteinian theories of gravitation) (stating that "[c]ourts have found that even highly accomplished individuals fail to win this designation")); *Lee v. Ziglar*, 237 F. Supp. 2d 914, 918 (N.D. Ill. 2002) (finding that "arguably one of the most famous baseball players in Korean history" did not qualify for visa as a baseball coach). In this case, the Petitioner has not shown the significance of her work is indicative of the required sustained national or international acclaim or it is consistent with a "career of acclaimed work in the field" as contemplated by Congress. *See* H.R. Rep. No. at 59; *see also* section 203(b)(1)(A) of the Act. While the Petitioner need not establish that there is no one more accomplished to qualify for the classification sought, the record is insufficient to demonstrate that she is among the small percentage at the top of her field. *See* 8 C.F.R. § 204.5(h)(2).

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, with each considered as an independent and alternate basis for the decision.

ORDER: The appeal is dismissed.

⁵ The Petitioner provided comparative wages of lash makers rather than to her occupation as a beauty salon entrepreneur or owner.

⁶ *See* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(2) (providing that while a person may be stronger in one particular evidentiary area than in others, the totality of the evidence must establish that the person is extraordinary).