U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37341058

Date: APR. 10, 2025

Appeal of Texas Service Center Decision

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

The Petitioner, a hairstylist, seeks classification as an alien 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 the record did not establish that the Petitioner had satisfied at least three of ten initial evidentiary criteria, as required. The Director also determined that the Petitioner had not established that her entry into the United States would result in substantial prospective benefit to the United States. The matter is now before us on appeal under 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 immigrant visas available to aliens with 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. A petitioner must establish that these aliens seek to enter the United States to continue work in the area of extraordinary ability, and that their entry into the United States will substantially benefit the United States. The term "extraordinary ability" refers only to those aliens 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 international recognition of an alien's achievements in the field through a one-time achievement in the form of a major, internationally recognized award. Or the petitioner can submit evidence that meets at least three of the ten criteria 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. If those

standards do not readily apply to the alien's occupation, then the regulation at 8 C.F.R. § 204.5(h)(4) allows the submission of comparable evidence.

Once a petitioner has met the initial evidence requirements, the next step is a final merits determination, in which we assess whether the record shows sustained national or international acclaim and demonstrates that the alien 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 worked as a hairstylist and manager at various salons in Brazil from 2013 to 2019, eventually owning her own establishment. The Petitioner entered the United States in 2019 as an F-1 nonimmigrant student, and later began working at a salon in [redacted] Florida.

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 Petitioner initially claimed to have satisfied four of these criteria, summarized below:

- (ii), Membership in associations that require outstanding achievements;
- (iii), Published material about the alien in professional or major media;
- (v), Original contributions of major significance; and
- (vii), Display at artistic exhibitions or showcases.

In response to a request for evidence (RFE), the Petitioner claimed two more criteria:

- (iv), Participation as a judge of the work of others; and
- (viii), Leading or critical role for distinguished organizations or establishments.

In the denial notice, the Director concluded that the Petitioner had satisfied two criteria, relating to published material and display. The Director refused to consider the evidence relating to the two newly-claimed criteria in response to the RFE.

On appeal, the Petitioner maintains that she meets the requirements of the criteria pertaining to contributions, judging, and leading or critical roles. The Petitioner does not dispute the Director's conclusions regarding memberships. Therefore, the Petitioner has waived appeal on this claim. Any ground of ineligibility that is not raised on appeal is waived. *See Matter of O-R-E-*, 28 I&N Dec. 330, 336 n.5 (BIA 2021) (citing *Matter of R-A-M-*, 25 I&N Dec. 657, 658 n.2 (BIA 2012)).

Upon review of the record, and as explained below, we conclude that the Petitioner has not satisfied the requirements of any of the claimed criteria.

1. Published Material

The regulation at 8 C.F.R. § 204.5(h)(3)(iii) calls for published material about the alien in professional or major trade publications or other major media, relating to the alien's work in the field for which classification is sought. The evidence must include the title, date, and author of the material, and any necessary translation.

The Director concluded that the Petitioner had satisfied the requirements of this criterion. Closer examination of the record, however, does not support this conclusion.

The Petitioner initially submitted printouts of 23 online articles. Not all of the articles are dated, but those with dates were published between February and September 2021.

The Director issued an RFE, asking for evidence that the articles appeared in professional or major trade publications or other major media, as the regulation requires. In response, the Petitioner submitted page visit statistics for seven of the websites that carried the articles.

Some of the submitted articles appeared on the website of an online publication called [redacted]. The Petitioner's response to the RFE included page viewership data not for [redacted] but for the similarly-spelled [redacted] which the submitted printout identifies as the website of a plumbing supply company. The Petitioner did not submit any circulation data to establish that [redacted] meets the regulatory requirements.

The Petitioner submitted page visit data for [redacted], but the articles on those websites are not about the Petitioner. Rather, they reported that a social media personality had gotten hair extensions and planned to post a YouTube video about the experience. The [redacted] article named the Petitioner as the hairstylist who did the work, and the [redacted] article shows photographs of the Petitioner, but the articles do not include substantial discussion that would make the article about the Petitioner. *See generally* 6 *USCIS Policy Manual* F.2(B)(1), https://www.uscis.gov/policy-manual.

The remaining three websites for which the Petitioner submitted page visit data are among 15 websites that printed exactly the same article, bearing the headline [redacted]' and featuring the same photograph of the Petitioner.

In terms of the required author credits, the Petitioner asserted that the articles were written by the "editorial staff" of the websites that carried the articles. The articles themselves, however, do not include any such credits and do not identify the members of the "editorial staff." The Petitioner identified no source for the claims about the articles' authorship.

Because each article is exactly the same, we cannot accept the Petitioner's unsubstantiated claim that each version of the article has different authors. Some of the online publications labeled the article as a "press release," indicating that an unnamed third party submitted the article for publication. Not all the submitted printouts have legible dates, but those that do are all dated April 9, 2021. The Petitioner has not established the authorship of the article or the circumstances surrounding its simultaneous publication on numerous outlets throughout the United States.

The origin of the article is material to this proceeding because promotional or marketing materials are not generally considered to be published material about the person. This includes seemingly objective content about the person in major print publications that the person or the person's employer paid for. *See generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1). Given that the article is identified as a press release, it is significant that the Petitioner has not identified the source of that press release. The Petitioner's unsupported claim that media outlets across the United States independently and simultaneously wrote the same article raises serious questions of credibility. An immigrant petition can only be properly approved upon a determination that the facts claimed in the petition are true. *See* section 204(b) of the Act, 8 U.S.C. § 1154(b). Unresolved material inconsistencies may lead us to reevaluate the reliability and sufficiency of other evidence submitted in support of the petition. *See Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988).

For the above reasons, we disagree with the Director's conclusion that the Petitioner had satisfied the requirements of 8 C.F.R. § 204.5(h)(3)(iii).

2. Original Contributions

The regulation at 8 C.F.R. § 204.5(h)(3)(v) calls for evidence of the alien's original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field.

Widespread commentary or evidence of significant attention or commercialization may help to establish the major significance of an original contribution. *See generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1).

The Petitioner stated on her résumé that she "developed an innovative technique called [redacted] [redacted] providing [an] understanding of the best treatment to use on damaged hair." In the introductory statement submitted with the petition, the Petitioner stated that she "has made significant original contributions to the hairstyling industry through the development and application of her innovative technique called [redacted] This technique focuses on repairing and restoring hair that has been damaged by coloring or other chemical treatments."

But in that same introductory statement, the Petitioner stated: "in 2023, she acquired a certificate specifically focused on [redacted] further solidifying her expertise in this innovative hair repair technique." A Portuguese-language certificate reproduced in the record indicates that the Petitioner underwent 240 hours of training in '[redacted] from the [redacted] in 2023. This certificate is consistent with the Petitioner's assertion that she received certification in [redacted] in 2023, but it undermines the claim that she personally "developed . . . [the] technique." Receiving training and certification in an existing technique is not inherently an original contribution. The record lacks a consistent description of [redacted] or what aspect of the technique the Petitioner developed. Some letters appear to describe it as a combination of several existing techniques.

The Petitioner has submitted letters from individuals who refer to [redacted] as the Petitioner's innovation, but the record lacks sufficient evidence to show that the Petitioner developed a specific original treatment method, rather than learned or adapted existing techniques. Also, while the letters

include praise for [redacted] the record lacks objective documentary evidence to establish its major significance in the Petitioner's field. The record, for instance, does not establish that other hair stylists have widely adopted any technique that the Petitioner has developed.

Letters from experts can provide context, particularly when the record includes corroborating documentation. The letters should describe the contribution in detail and specifically explain its significance, while also establishing the basis of each writer's knowledge and expertise. *See generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1).

Letters from clients indicate that these individuals were satisfied with the Petitioner's work, but the positive experience of individual clients does not demonstrate major significance in the field.

The Petitioner stated that "[o]ne of [her] most notable contributions was her unique approach to treating [the] damaged hair" of "a social media star with over 2.6 million followers on Instagram." The Petitioner submitted printouts of posts and articles indicating that the social media personality received hair extensions, but the materials do not provide any further information to indicate that the Petitioner's work with the celebrity involved original contributions of major significance.

In the RFE, the Director stated that the Petitioner had not submitted enough information to establish that she had made original contributions, and that those contributions have major significance in her field. After listing types of documentary evidence that might help to meet the requirements of the criteria, the Director stated that letters "must provide as much detail as possible about the beneficiary's contribution," and that "[g]eneral statements regarding the importance of the endeavors, which are not supported by documentary evidence are insufficient."

In response, the Petitioner stated that the letters include "objective evidence" in the form of before-and-after photographs, and that "the clients' testimonies are irrefutable proof of how [the Petitioner] has changed and improved their lives, aside from impacting the overall field through her original contributions." The clients' statements attest to the Petitioner's effect on them individually, but the successful outcome of individual cases does not establish major significance in the field.

The Petitioner did not submit any of the objective documentation that the Director had suggested, such as patents or published material about her contributions. The Petitioner discussed previous submissions and submitted additional letters attributed to individuals in the hair care industry, praising the Petitioner's work in capillary therapy.

The Director concluded that the Petitioner had not identified any specific original contributions and had not established the major significance of her work. On appeal, the Petitioner asserts that "expert opinion letters . . . were not thoroughly analyzed or afforded the appropriate weight."

The letters, however, do not provide objective evidence that [redacted] is the Petitioner's original contribution to the field. The new letters include general claims about the Petitioner's influence on her field, but they cite no verifiable evidence to support those claims. As noted above, expert letters generally have greater weight when supported by corroborating evidence.

A letter dated June 30, 2024, attributed to an official of a cosmetics company, includes this passage:

> A notable event showcasing [the Petitioner's] extraordinary ability is [an] upcoming exhibition . . . at the [redacted] from July 11 to July 13, 2023. . . . The event will provide attendees with the opportunity to learn directly from [the Petitioner] through educational sessions, interactive workshops, and live demonstrations, thereby spreading her innovative methods and elevating our organization's standards.

Another letter, dated July 10, 2024 and attributed to a hairstylist, reads, in part:

> From July 11 to July 13, 2023, [the Petitioner] will demonstrate her pioneering technique at [an] exhibition . . . at the [redacted] This platform will further establish her as a leader in the hairstyling industry. The event will provide attendees with the opportunity to witness her skills firsthand and learn about the latest advancements in hair therapy.

These letters both use the future tense to describe an event that had occurred a year earlier, and use similar language to do so.[1] These anomalies raise further questions about the origin of the letters and the circumstances under which they were written. Other submitted letters raise further questions:

- A letter attributed to a client with the initials C.S. ends with a signature block including the phrase "[Your Name]" in brackets.
- The signature block of another letter, attributed to a client with the initials R.R., includes the phrases "Email address:" and "Telephone number:" without actually providing that information.
- R.R.'s letter calls the Petitioner "a talented hairstylist whose exceptional skills and unique expertise have made a profound impact on my life." A letter attributed to another client, with the initials M.G., describes the Petitioner in almost the same wording, calling her "an exceptional hairstylist and capillary therapist whose unique skills and expertise have made a profound impact on my life."
- The name of the [redacted] salon identified as the Petitioner's employer is consistently misspelled in several letters, including letters attributed to officials of that business.

Evidence of common origin "calls into question the persuasive value of the letters' content" and "undermine[s] their probative value." *Hamal v. U.S. Dep't of Homeland Security*, No. CV 19-2534 (RC), 2021 WL 2338316, at *4 (D.D.C. June 8, 2021), *aff'd sub nom. Hamal v. United States Dep't of Homeland Sec.*, No. 21-5160, 2023 WL 1156801 (D.C. Cir. Jan. 31, 2023). These questions of true authorship take on additional gravity in the context of the Petitioner's claim that different authors wrote each of the 15 identical online articles discussed further above.

Aside from the issue of the letters' true origins, individuals describing the Petitioner's use of [redacted] discussed the use of blended oils, "ozone steam," LED light, and other materials and technology. The Petitioner's 2023 training certificate indicates that she took a 240-hour course in [redacted] including such elements as "LED and its benefits," "Blend of oils," and "Ozone Vapor and benefits." This document indicates that the Petitioner learned these methods in a training course, rather than developed them as her own original contribution.

[1] Materials in the record confirm that the event took place in July 2023, and the letters had not simply misstated the year.

The Petitioner has not met her burden of proof to satisfy the requirements of the criterion.

3. Artistic Display

The regulation at 8 C.F.R. § 204.5(h)(3)(vii) calls for evidence of the display of the alien's work in the field at artistic exhibitions or showcases.

The Director concluded that the Petitioner satisfied the requirements of this criterion. We disagree.

The Petitioner asserted:

> Two exhibitions, [redacted] were specifically created to showcase [the Petitioner's] exceptional techniques in the field of [redacted] These exhibitions were designed to provide a platform for [the Petitioner] to demonstrate and share her groundbreaking approach to repairing and restoring damaged hair.

The record does not show that [redacted] an event at a [redacted] hair salon that employed the Petitioner, was an artistic exhibition or showcase. Rather, a letter attributed to the manager of that salon indicates: "[t]he event encompassed live demonstrations, presentations, and interactive sessions" showing the Petitioner's "ability to restore and revitalize damaged hair." The Petitioner has not established that this event was an artistic exhibition or showcase rather than a promotional demonstration of techniques available from the salon that hosted the event.

Although the Petitioner described [redacted] as an event "specifically created to showcase [her] exceptional techniques," the record does not show that the event centered around her work in this way. Materials in the record indicate that the Petitioner occupied [redacted] at [redacted] as a representative of a brand of beauty products.

An official of the company that the Petitioner represented at [redacted] stated: "This event is widely recognized as the largest beauty fair in the industry, offering unparalleled opportunities for education, product launches, and the presentation of cutting-edge techniques." [redacted] own materials describe the event as a "beauty industry tradeshow," offering opportunities "to connect with manufacturers and distributors." These descriptions in the record depict [redacted] as a commercial, rather than artistic, exhibition. Non-artistic exhibitions or showcases do not satisfy the criterion's requirements. *See generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1).

Because the Petitioner has not established that the events described in the record were *artistic* exhibitions and showcases, the Petitioner has not met her burden of proof with regard to the criterion.

As noted above, the Director declined to consider two further criteria that the Petitioner first claimed in response to the RFE. On appeal, the Petitioner asserts that the Director should not have arbitrarily refused to consider the newly submitted evidence. The Petitioner observes that the new evidence concerns events that occurred before the petition's filing date.

We will discuss the submitted evidence below, to establish that the Director's consideration of the two newly-claimed criteria would not have changed the outcome of the petition.

4. Judging

The regulation at 8 C.F.R. § 204.5(h)(3)(iv) calls for evidence of the alien's 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.

The Petitioner's RFE response included a letter, dated July 2024, attributed to a writer with the initials C.S. The letter reads, in part:

> I am writing to confirm the participation of [the Petitioner] as a judge in a professional hairstyling competition that took place on August 21, 2019. My name is [redacted] and I have always been deeply involved in the beauty industry. Over the years, I have owned a cosmetics and mega hair store, operated a beauty salon, and currently work as a Hair Therapist.
>
> On August 21, 2019, I organized a significant event . . . to present new beauty products and foster connections among industry professionals. A highlight of the event was a hairstyling contest where professional hairdressers showcased their talents. The competition evaluated participants on visagismo, beauty, and creativity. [The Petitioner], with her extensive critical knowledge, served as a judge and played a crucial role in assessing and selecting the best stylist.

The letter includes a photograph of a promotional card or flier for the event, but no documentary evidence from 2019 to confirm the Petitioner's participation in the event as a judge. We note that, in the initial submission, the Petitioner acknowledged the "judging" criterion but did not claim to satisfy it.

The RFE response includes photographs that, the Petitioner claims, show the 2019 competition, but the photographs are undated and contain no internal information, such as signage, to indicate that the photograph was taken in connection with a competition in which the Petitioner served as a judge.

Given other credibility issues concerning written materials in the record, it is significant that the letter quoted above is not the first letter in the record attributed to C.S. The Petitioner's initial submission included a letter dated June 3, 2023, which reads, in part:

> As a client who had the pleasure of witnessing her expertise firsthand, I am delighted to provide my testimonial and vouch for her remarkable skills.
>
> I had the opportunity to attend the [redacted] on June 3rd, 2023. . . .
>
> It was during this event that I was introduced to [the Petitioner's] exceptional techniques in [redacted] particularly in repairing hair damaged by coloring or other treatments. [The Petitioner's] demonstration at the event left a lasting impression on me. . . .

. . . .

> As a client who has experienced the transformative effects of [the Petitioner's] expertise, I wholeheartedly endorse her proposed endeavor in the United States.

In the 2023 letter, C.S. did not claim to work in the hair care industry and did not claim to have met the Petitioner before June 2023. It is this letter that includes "[Your Name]" in the signature block, as mentioned further above.

Given the difficulty of reconciling these two letters and the lack of contemporaneous evidence, we cannot conclude that the Petitioner has met her burden of proof regarding the judging criterion that she newly claimed in response to the RFE.

5. Leading or Critical Role

The regulation at 8 C.F.R. § 204.5(h)(3)(viii) calls for evidence that the alien has performed in a leading or critical role for organizations or establishments that have a distinguished reputation.

In response to the RFE, the Petitioner cited "three letters of recommendation from the owners of leading companies in the beauty industry. Each letter serves as a testament to the critical role that [the Petitioner] has assumed for distinguished organizations or establishments."

Letters attesting to the significance of one's role should contain detailed and probative information that specifically addresses how the person's role for the organization or establishment was leading or critical. *See generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1). For a critical role, the evidence should establish that the person has contributed in a way that is of significant importance to the outcome of the organization or establishment's activities. *Id.* The letters submitted by the Petitioner do not meet these standards.

The first letter is attributed to a partner at the salon identified as the Petitioner's employer. As noted above, the name of the salon is misspelled nearly every time it appears in the letter. The writer of the letter praised the Petitioner's skills and stated that the Petitioner's "invaluable contributions have significantly impacted our establishment as a whole," but provides no specific details except to assert that the Petitioner "showcas[ed] her capillary therapy technique" at a 2021 event at the salon.

The next letter is attributed to the chief executive officer of a cosmetics company, who states that the Petitioner's [redacted] technique . . . has transformed our hair repair and restoration business." The letter provides no further details about how the company has used the Petitioner's techniques and how doing so has been critical for the company. General assertions, such as calling the Petitioner's work "a game-changer," cannot suffice in this regard.

The third letter is from the founder of a salon in Brazil, who has known the Petitioner since 2010 when both individuals worked in banking. The writer indicated that the salon hired the Petitioner in 2015 and "[s]ince then, her role within [the salon] has become crucial." The writer praised the Petitioner's "technical skills," "innate talent for management and organization," and "dedication to customer service and attention to detail."

None of the letters contains detailed and probative information establishing how the Petitioner's role is or was critical for the respective organizations.

Also, the Petitioner did not submit evidence to establish that any of the organizations has a distinguished reputation. The relative size or longevity of an organization or establishment is not in and of itself a determining factor, but is considered together with other relevant factors such as the scale of its customer base or relevant media coverage. *See generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1).

The letter writers' assertions about their own organizations are not sufficient evidence of a distinguished reputation. *Cf. Braga v. Poulos,* No. CV 06-5105 SJO, 2007 WL 9229758, at *7 (C.D. Cal. July 6, 2007) *aff'd* 317 F. App'x. 680 (9th Cir. 2009) (concluding that self-serving promotional assertions are not reliable evidence of a company's reputation).

The Petitioner has not met her burden of proof with regard to this criterion.

In light of the above conclusions, the Petitioner does not meet the initial evidentiary requirement of three criteria under 8 C.F.R. § 204.5(h)(3). Detailed discussion of the separate ground for denial, relating to substantial prospective benefit to the United States, cannot change the outcome of this appeal. Therefore, we reserve this issue.[2]

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 aliens already at the top of their respective fields, rather than for aliens 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 Petitioner has not shown a degree of recognition of her work that indicates the required sustained national or international acclaim and 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 initial evidence originates from a very short span of time. For instance, every published article with a date is from 2021, and most of those articles were published the same day in April of that year.

[2] *See INS v. Bagamasbad*, 429 U.S. 24, 25-26 (1976) (stating that, like courts, federal agencies are not generally required to make findings and decisions unnecessary to the results they reach); *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 an applicant is otherwise ineligible).

The narrow time range does not lend itself to the *sustained* acclaim that the statute and regulations require. The Petitioner has heavily relied on letters rather than objective documentary evidence, and many of the submitted letters raise questions, as we have detailed further above. The extraordinary ability classification requires recognition at a national or international level, and the record is largely limited to parts of Florida.

The Petitioner has not demonstrated eligibility as an alien of extraordinary ability. We will therefore dismiss the appeal.

ORDER: The appeal is dismissed.