U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 14515162

Date: APR. 19, 2021

Appeal of Vermont Service Center Decision

Form I-129, Petition for Nonimmigrant Worker (Extraordinary Ability – O)

The Petitioner, a business engaged in television productions and publishing, seeks to classify the Beneficiary as a foreign national of extraordinary ability in business. To do so, the Petitioner seeks O-1 nonimmigrant classification, available to foreign nationals who can demonstrate their extraordinary ability through sustained national or international acclaim and whose achievements have been recognized in the field through extensive documentation. *See* Immigration and Nationality Act (the Act) section 101(a)(15)(O)(i), 8 U.S.C. § 1101(a)(15)(O)(i).

The Director of the Vermont Service Center initially denied the petition and subsequently affirmed her decision on motion, concluding that the Petitioner, did not satisfy, as required, the alternative evidentiary criteria applicable to individuals of extraordinary ability in business, either a major, internationally recognized award or at least three of eight possible forms of documentation pursuant to 8 C.F.R. § 214.2(o)(3)(iii)(A)-(B).

In these proceedings, it is the Petitioner's burden to establish eligibility for the requested benefit. Section 291 of the Act, 8 U.S.C. § 1361. Upon *de novo* review, we will dismiss the appeal.

I. LAW

As relevant here, section 101(a)(15)(O)(i) of the Act establishes O-1 classification for an individual who has extraordinary ability in the sciences, arts, education, business, or athletics that has been demonstrated by sustained national or international acclaim, whose achievements have been recognized in the field through extensive documentation, and who seeks to enter the United States to continue work in the area of extraordinary ability. Department of Homeland Security (DHS) regulations define "extraordinary ability in the field of science, education, business, or athletics" as "a level of expertise indicating that the person is one of the small percentage who have arisen to the very top of the field of endeavor." 8 C.F.R. § 214.2(o)(3)(ii).

Next, DHS regulations set forth alternative evidentiary criteria for establishing a beneficiary's sustained acclaim and the recognition of achievements. A petitioner may submit evidence either of "a major, internationally recognized award, such as a Nobel Prize," or of at least three of eight listed categories of documents. 8 C.F.R. § 214.2(o)(3)(iii)(A)-(B).

The submission of documents satisfying the initial evidentiary criteria does not, in and of itself, establish eligibility for O-1 classification. *See* 59 Fed. Reg. 41818, 41820 (Aug. 15, 1994)("The evidence submitted by the petitioner is not the standard for the classification, but merely the mechanism to establish whether the standard has been met."). Accordingly, where a petitioner provides qualifying evidence satisfying the initial evidentiary criteria, we will determine whether the totality of the record and the quality of the evidence shows sustained national or international acclaim such that the individual is among the small percentage at the very top of the field of endeavor. *See* section 101(a)(15)(o)(i) of the Act and 8 C.F.R. § 214.2(o)(3)(ii), (iii).[1]

II. ANALYSIS

A. Evidentiary Criteria

The Beneficiary indicates current employment as an executive editor and journalist for the [redacted], [redacted], [redacted], [redacted], and [redacted]. Because the Petitioner did not establish that the Beneficiary has received a major, internationally recognized award, it must satisfy at least three of the alternate regulatory criteria at 8 C.F.R. § 214.2(o)(3)(iii)(B)(*1*)-(*8*). In denying the petition, the Director determined that the Petitioner did not fulfill any of the initial evidentiary criteria. On appeal, the Petitioner submits a brief claiming to meet seven criteria. After reviewing all the evidence, we conclude that the record does not support a finding that the Petitioner satisfies the requirements of at least three criteria.

> *Documentation of the alien's receipt of nationally or internationally recognized prizes or awards for excellence in the field of endeavor.* 8 C.F.R. § 214.2(o)(3)(iii)(B)(*1*).

The Petitioner claimed eligibility for this criterion based on the Beneficiary's receipt of a [redacted] Award for Best Screenwriter 2017" from the [redacted] Film Festival [redacted]. In order to fulfill this criterion, a petitioner must demonstrate that the beneficiary received the prizes or awards, and they are nationally or internationally recognized for excellence in the field of endeavor. Relevant considerations regarding whether the basis for granting the prizes or awards was excellence in the field include, but are not limited to, the criteria used to grant the prizes or awards, the national or international significance of the prizes or awards in the field, and the number of awardees or prize recipients as well as any limitations on competitors. The Petitioner did not establish that the [redacted] Award for Best Screenwriter" is nationally or internationally recognized for excellence in the field. Although the Petitioner submitted documentation regarding the [redacted] Project and [redacted] it does not reflect the national or international significance of the Beneficiary's prize. Within its response to the Director's request for evidence (RFE), the Petitioner provided a letter from [redacted] executive producer of [redacted] who provides that the [redacted] Award for Best Screenwriter" was established in 2013 "to honor a single individual for [redacted] contribution to enriching culture through motion pictures and television," and recognized the Beneficiary's "contribution to the art of screenwriting." We note that [redacted]'s letter does not identify the Beneficiary's prior achievements as a screenwriter for film or television.

[1] *See also Matter of Chawathe,* 25 I&N Dec. 369, 376 (AAO 2010), in which we held that, "truth is to be determined not by the quantity of evidence alone but by its quality."

On motion, the Petitioner provided an article dated 2014 and entitled, [redacted] from the website www.sandiegored.com. The article provides a link to enter the 2014 [redacted] competition and describes it as an [redacted] film competition run by [redacted] that is "open to any up-and-coming filmmaker with access to the internet." The article indicates that the competition "challenges participants to create a short film in just two days" with the top 15 films also winning [redacted]. The Petitioner's motion also included a press release dated 2017 from the [redacted] published on the website www.electrowow.net, announcing the winners of the 2016 [redacted] competition, providing information about the competition, and providing the names and occupations of "some of the industry's top decision makers for its 2016 Jury." An additional press release from the website www.zeitblatt.com indicates that the 2018 [redacted] took place at the [redacted]. The above promotional materials from [redacted] do not mention or demonstrate the national or international recognition of excellence in the field that is associated with the Beneficiary's receipt of the 2017 [redacted] Award for Best Screenwriter." In addition, the Petitioner has not shown that the Beneficiary's award received any media coverage at the time she received it.

The Petitioner's motion further included an article from www.latimes.com entitled [redacted]. The article, which is about some of [redacted]'s career accomplishments, mentions that in 2016 her short film [redacted] "was nominated in seven categories at the [redacted] an [redacted] film festival" and that the film "took home awards for best short, best director and best cinematography." It contains a picture of [redacted] at the 2016 [redacted]. Although the article confirms that [redacted] is a past winner of [redacted] awards, the Petitioner did not show how other individuals receiving such prize is in-and-of-itself evidence of national or international recognition for excellence. In addition, the article does not indicate the prestigious nature of the [redacted] awards. Here, the Petitioner provided insufficient evidence to identify the "[redacted] Award for Best Screenwriter" as a nationally or internationally recognized prize for excellence in the field consistent with this regulatory criterion.

For the reasons discussed above, the Petitioner did not establish that the Beneficiary meets this criterion.

> *Published material in professional or major trade publications or major media about the alien, relating to the alien's work in the field for which classification is sought, which shall include the title, date, and author of such published material, and any necessary translation.* 8 C.F.R. § 214.2(o)(3)(iii)(B)(*3*).

The Petitioner submitted articles pertaining to the Beneficiary from the print editions of the magazines [redacted] *You Weekly Magazine*, *Passarella*, *OK*,[2] and [redacted]. We note that although the Petitioner provided translations, the translator indicates that they translated only an

[2] It does not appear that the original untranslated article from *OK* is located at [redacted] 2006 edition of the publication, as indicated by the translation.

"excerpt" of those articles.[3] Because the articles were not fully translated, we cannot determine that the articles are about the Beneficiary. In addition, regarding the article from *Passarella* we note that the author of the article is not identified, and the article is not accompanied by the required certification from the translator.[4]

The Petitioner also provided articles published on the websites www.the-bolar.blogspot.com, [redacted] and [redacted] The articles, however, do not reflect published material about the Beneficiary relating to her work. Rather, the article from www.the-bolar.blogspot.com discusses the Eurovision song contest, the article from [redacted] the Beneficiary's employer, is about her soon-to-be-released [redacted] and the article from [redacted] provides that the Beneficiary spoke at an event at the Synthesis Cultural Foundation in Boston. Articles that are not about an alien do not fulfill this regulatory criterion. *Cf. Negro-Plumpe v. Okin*, 2:07-CV-820-ECR-RJJ at *1, *7 (D. Nev. Sept. 8, 2008) (upholding a finding that articles regarding a show are not about the actor). In addition, we note that the article from [redacted] does not identify the author.

Further, the Petitioner did not provide supporting evidence indicating that the print or digital editions of the aforementioned publications qualify as major media. Moreover, although the Petitioner submitted information from the website www.eurotopics.net indicating that the newspaper [redacted] has a weekly circulation of 50,000, and documentation from the websites [redacted] and [redacted] providing sales statistics for *You Weekly Magazine* for a one-week period in May 2013 and May 2018, respectively, there is no evidence showing the distribution of [redacted] relative to other [redacted] media or of *You Weekly Magazine* relative to other [redacted] media, to demonstrate those publications constitute major media.

Moreover, the Petitioner submitted a screenshot of a video posted on the website [redacted] from "[redacted]" The Petitioner claimed that the video reflected an interview of the Beneficiary broadcasted on [redacted] in [redacted] on [redacted] 2016. However, the Petitioner did not provide a transcription of the video demonstrating published material about the Beneficiary relating to her work. The Petitioner provided a translation of "Minute: 01:00 (Introduction)" and "Minute: 15:40" of the video, indicating that the Beneficiary was interviewed concerning her opinion about various [redacted] television personalities and their work. The Petitioner also did not establish that [redacted] represents a major medium. Further, the Petitioner provided articles from several websites that it claims are about the Beneficiary's aforementioned appearance on [redacted] However, all the articles were in the [redacted] language. Finally, the Petitioner did not include supporting evidence demonstrating that any of these articles appeared in professional or major trade publications or other major media, and instead relied on unsupported assertions regarding the stature of these

[3] Any document in a foreign language must be accompanied by a full English language translation. 8 C.F.R. § 103.2(b)(3). The translator must certify that the English language translation is complete and accurate, and that the translator is competent to translate from the foreign language into English. *Id.*

[4] The Petitioner also provided evidence that an article about the Beneficiary would appear in [redacted] in June 2019. However, the Petitioner filed this petition in February 2019. As noted by the Director, the Petitioner must establish that all eligibility requirements for the immigration benefit have been satisfied from the time of the filing and continuing through adjudication. 8 C.F.R. § 103.2(b)(1); therefore, the Petitioner cannot establish the Beneficiary's eligibility under this criterion based on an article published in June 2019, even if we were to determine that it otherwise satisfies all elements of this evidentiary criterion.

websites compared to other publications in [redacted] contained in a document entitled [redacted] For example, the document indicates for [redacted] that the "[w]ebsite's rank in [redacted]" The record also lacks the original untranslated document corresponding to this material.

For the above reasons, the Petitioner has not established that the Beneficiary satisfies this criterion.

> *Evidence of the alien's participation on a panel, or individually, as a judge of the work of others in the same or in an allied field of specialization to that for which classification is sought.* 8 C.F.R. § 214.2(o)(3)(iii)(B)(*4*).

This regulatory criterion requires the Petitioner to show that the Beneficiary has acted as a judge of the work of others in the same or an allied field of specialization. The Director determined that the record shows that the Beneficiary was a judge at the [redacted] Festival.[5] For the reasons outlined below, the record does not reflect that the Petitioner submitted sufficient documentary evidence demonstrating that the Beneficiary meets this criterion.[6] In support of this criterion, the Petitioner submitted a reference letter from [redacted] who confirmed the Beneficiary's "involvement in the judging committee on this [redacted] Festival." His letter indicates that participants in the [redacted] compete "for the [redacted] and the [redacted] Awards," that "we decided to invite [the Beneficiary] to join our organization as one of our acclaimed judges," and that "[the Beneficiary] has become a valuable member of our judging committee, adding her unique knowledge, perspectives, and reputation on our decision making." [redacted]'s letter lacks specificity regarding the events at which the Beneficiary judged and, therefore, the letter alone is insufficient to establish that the Beneficiary served as a judge of the [redacted] or [redacted] Awards.

The Petitioner also provided screenshots from the website [redacted] that identify the Beneficiary, a "TV personality in the [redacted] broadcast industry," as among the "Judges of 2017." The screenshots also advise contestants that "[t]he appraisal you receive will be honest and worthwhile," indicating that the 2017 [redacted] competitions had not yet taken place. In order to meet this criterion, the Petitioner must show that the Beneficiary has not only been invited to judge the work of others, but also that she actually participated in the judging of the work of others in the same or allied field of specialization. Here, the Petitioner did not present corroborating documentation showing that the Beneficiary actually participated in judging filmmakers' [redacted] submissions and the events at which the Beneficiary judged, to show that she actually participated as a judge for the 2017 [redacted] or [redacted] Awards.

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[5] The Director ultimately determined that the Petitioner did not satisfy this criterion because it did not demonstrate the "significance" of the Beneficiary's judging experience. However, this consideration does not relate to whether the Petitioner has met the plain language of this criterion. If the Beneficiary had satisfied at least three criteria, which she did not, then we would have analyzed her judging experience as part of the totality of the evidence to determine if her successes are sufficient to establish that she has extraordinary ability in the field of endeavor. Although we need not conduct such an analysis in this case, we briefly note that we do not find the record (including the evidence under this criterion) to be indicative of the sustained acclaim and recognition for achievements required for this highly restrictive classification.

[6] The Petitioner previously claimed that the Beneficiary also meets this criterion based on her participation as the chair at a symposium sponsored by [redacted] in 2011. On appeal, the Petitioner claims eligibility based on the Beneficiary's claimed judging for the [redacted] awards mentioned above and does not address this claimed judging.

For the reasons discussed above, the Petitioner has not demonstrated that the Beneficiary satisfies this criterion.

> *Evidence of the alien's original scientific, scholarly, or business-related contributions of major significance in the field.* 8 C.F.R. § 214.2(o)(3)(iii)(B)(*5*).

In order to satisfy this criterion, a petitioner must establish that not only has the beneficiary made original contributions but that they have been of major significance in the field. For example, a petitioner may support the record with evidence that a beneficiary's contributions have been widely implemented, have remarkably impacted or influenced the field, or have otherwise risen to a level of major significance in the field. On appeal, the Petitioner contends that it has provided letters from "true experts in the field that include famous writers, well-known journalists, a University professor, big media editors, and [a] TV host and producer" who "gave their insight and in-depth explanation on what are the contributions of [the Beneficiary] to [redacted] journalism and culture."[7] Here, although the letters reflect praise regarding the Beneficiary's journalistic abilities, they do not show how the Beneficiary has made original contributions of major significance in the field.

For example, the letters do not indicate that the Beneficiary has significantly influenced or impacted the field of journalism. [redacted] former [redacted] of *DownTown* magazine, provides that the Beneficiary was "the most powerful factor in the publication of this magazine because she already had a considerable following of concrete and loyal readers." He describes her as the "best pen of her generation" and "my first choice" to launch television and theatrical projects because her interviews "create the publicity required for success."

[redacted], a journalist with the newspaper [redacted] indicates that the Beneficiary wrote articles for the publication's cultural insert *Feel Good*, which were published on the "leading" website [redacted] and received "a very high readership." He describes the Beneficiary as the "top journalist in [redacted] and praises her "unique manipulation of the [redacted] language, as well as for the way she approached the interviewees."

[redacted], [redacted] of the digital business publication [redacted] indicates that the Beneficiary has conducted "exceptional" interviews of European artists and business magnates for the publication, and that her articles "have significantly increased the number of visitors to our website." [redacted], [redacted], and [redacted] discussed the Beneficiary's contributions to [redacted], [redacted] and [redacted], rather than explaining how the Beneficiary has made original contributions of major significance in the greater field. For instance, although [redacted] asserts that the Beneficiary "has changed the writing language of modern journalism" with her "unique style of writing and extraordinary use of the [redacted] language," he did not elaborate and show how the Beneficiary's contributions have been implemented in the overall field or how they have somehow resulted in a substantial effect in the field.

The Petitioner also provided letters from several of those who have been interviewed by the Beneficiary. [redacted] TV host and producer, provides that the Beneficiary introduced new publications on the [redacted] show in a "fresh, unique, and humorous" manner, and that the

[7] Although we discuss a sampling of letters, we have reviewed and considered each one.

Beneficiary's review of her book [redacted] was "paramount to its success." [redacted] a professor of history and Italian literature, claims that the Beneficiary's review of his book [redacted] show attracted the attention of a large academic audience generating significant sales. Again, [redacted] and [redacted] discussed the Beneficiary's contributions to the promotion of their books, rather than explaining how the Beneficiary has made original contributions of major significance in the greater field. In addition, [redacted] an novelist, praises as "exceptional" the Beneficiary's broadcast and written critiques of his works [redacted]. He indicates that the Beneficiary's journalism and television work has appeared on cable [redacted] programs in [redacted]" [redacted] does not point to any specific news stories, written or broadcast by the Beneficiary, or explain how they were of major significance in the field of journalism.

There is no presumption that every published article or interview is an original contribution of major significance; rather, the Petitioner must document the actual impact of the Beneficiary's work. The plain language of the criterion requires that the contributions be "of major significance in the field" rather than limited to a single newspaper and its readership, or a single television program and its viewership. The Petitioner has not established, for example, the impact or influence of the Beneficiary's articles or interviews beyond readership or viewership so as to establish that her work was of major significance in the field. Further, the Petitioner did not show how the Beneficiary's interviews of selected individuals in arts and business reflects original contributions of major significance to her overall field. Here, the Petitioner's letters do not contain specific, detailed information explaining how the Beneficiary's work qualifies as original contributions of major significance in the field. USCIS may, in its discretion, use as advisory opinions statements submitted as expert testimony. *See Matter of Caron International*, 19 I&N Dec. 791, 795 (Comm'r. 1988). However, USCIS is ultimately responsible for making the final determination regarding a foreign national's eligibility for the benefit sought. In addition, such letters from experts supporting the petition is not presumptive evidence of eligibility; USCIS may evaluate the content of those letters as to whether they support the foreign national's eligibility. Here, without additional, specific evidence showing that the Beneficiary's original work has been unusually influential, substantially impacted the field, or has otherwise risen to the level of original contributions of major significance, it cannot be concluded that she meets this regulatory criterion. [8]

For the reasons discussed above, considered both individually and collectively, the Petitioner has not shown that the Beneficiary has made original contributions of major significance in the field.

> *Evidence of the alien's authorship of scholarly articles in the field, in professional journals, or other major media.* 8 C.F.R. § 214.2(o)(3)(iii)(B)(*6*).

The Petitioner initially asserted that the evidence of the Beneficiary's interviews for [redacted] magazine of [redacted] in 2009 and the [redacted] in 2010 meets this criterion. On motion, the Petitioner asserted that these articles, as well as

[8] The Petitioner previously claimed that the Beneficiary also meets this criterion based on her authorship of the books [redacted] The Director concluded that the Petitioner did not establish how these books reflect original contributions of major significance in the field. On appeal, the Petitioner claims eligibility based on the testimonial evidence above and does not address these works.

the Beneficiary's books, [redacted], and [redacted] satisfied the requirements of this criterion. The Director determined that the documentation submitted did not establish the Beneficiary's eligibility under this criterion because the Petitioner did not establish the scholarly nature of the Beneficiary's articles and books. We note that, outside of academia, scholarly articles are typically written for learned individuals in the field.

On appeal, the Petitioner requests that we consider the Beneficiary's authorship of [redacted] and [redacted] as comparable evidence under the regulation at 8 C.F.R. 214.2(o)(3)(iii)(C). That provision allows for comparable evidence if the listed criteria do not readily apply to an individual's occupation. When submitting evidence that it wishes to be considered as comparable evidence, a petitioner should explain why the regulatory criterion does not pertain to a beneficiary's occupation and how the evidence submitted is "comparable" to the objective evidence required at 8 C.F.R. § 214.2(o)(3)(iii).

Here, the Petitioner does not assert, and the documentation submitted does not establish, that executive editors are unable to author scholarly articles in the field in professional journals or other major media. The fact that the Beneficiary has not authored such articles is not evidence that the criterion does not apply to her occupation. In addition, the Petitioner has not explained why these materials, which consist of articles in lifestyle magazines, two children's books, three works of adult fiction, and an interview of [redacted] for [redacted]'s autobiography, all written for a general readership, should be considered as comparable to scholarly articles published in professional journals or other major media. Accordingly, the Petitioner has not established that this evidence should be considered as comparable evidence under this criterion, or that it otherwise establishes that the Beneficiary meets this criterion.

Based on the above, the Petitioner has not demonstrated that the Beneficiary satisfies this criterion.

> *Evidence that the alien has been employed in a critical or essential capacity for organizations and establishments that have a distinguished reputation.* 8 C.F.R. § 214.2(o)(3)(iii)(B)(*7*).

On motion, the Petitioner claimed eligibility under this criterion based on the Beneficiary's role with [redacted] The scope of this evidentiary criterion focuses on the Beneficiary and the relative importance of her position within the scope of the organizations that have employed her. Employment in a critical or essential capacity should be apparent from a beneficiary's impact on the organization or the establishment's activities. The evidence must demonstrate that a beneficiary has contributed in a way that is of significant importance to the outcome of the activities of the organization or establishment. A beneficiary's performance in this capacity should establish whether the role was critical or essential for the organization or establishment as a whole. The Petitioner must also demonstrate that the organizations or establishments have a distinguished reputation.

The Petitioner submitted a letter from [redacted] chief financial officer of [redacted] who provides that between 2010 and 2015 the Beneficiary was employed by [redacted] as editor-in-chief of [redacted] and managing director of [redacted] He states that during her period of employment, "[the Beneficiary] received the highest salary after the senior executive committee." On appeal, the

Petitioner asserts that the submitted letter is sufficient to establish that the Beneficiary's employment with [redacted] was in a critical or essential capacity. Upon review, the letter from [redacted] does not contain detailed and probative information that specifically addresses how the Beneficiary's employment with [redacted] was responsible for the organization's success or standing to a degree consistent with the meaning of "critical or essential." For example, the Petitioner's evidence does not demonstrate how the Beneficiary's role differentiated her from other editors-in-chief or managing directors employed by the organization, let alone members of its senior executive committee. Moreover, [redacted] does not provide any background information or documentation regarding the company, such that it could be determined that it is an organization with a distinguished reputation, as required.

In light of the above, the Petitioner has not established that the Beneficiary satisfies this criterion.

> *Evidence that the alien has either commanded a high salary or will command a high salary or other remuneration for services, evidenced by contracts or other reliable evidence.* 8 C.F.R. § 214.2(o)(3)(iii)(B)(*8*).

The Director found that the Petitioner did not establish eligibility for this criterion. In order to meet this criterion, a petitioner must demonstrate that the beneficiary's past or proffered salary or remuneration is high relative to the compensation paid to others working in the field. For the reasons outlined below, the record does not establish that the Beneficiary fulfills this criterion.

The record reflects that the Petitioner claimed eligibility for this criterion based on the Beneficiary's salary at [redacted] between 2010 and 2015. Specifically, the Petitioner submitted the aforementioned letter of [redacted] regarding the Beneficiary's salary in her previous roles as editor-in-chief of [redacted] and managing director of [redacted] states that during the period of her employment "[the Beneficiary] received an average gross salary of 5,800 euro per month or 69,600 euro per annum." We note that the record lacks corroborating documentation of the Beneficiary's previous earnings, such as tax documents. [redacted] also provides that "based on our knowledge for the prevailing conditions in the [redacted] media market, the above figures can be considered one of the highest salaries in journalism after the economic crisis of 2010," but he does not support his claims regarding his assertion.

On motion, the Petitioner offered documentation relating to the salaries of "News Editor" and "Editor." The Petitioner has not submitted any additional evidence or arguments on appeal. Although the Petitioner likens the Beneficiary's salary to other occupations, the Petitioner did not show that she commands a high salary "in relation to others in the field." *Cf. Matter of Price*, 20 I&N Dec. 953, 954 (Assoc. Comm'r 1994) (considering a professional golfer's earnings versus other PGA Tour golfers); *see also Skokos v. U.S. Dept. of Homeland Sec.*, 420 F. App'x 712, 713-14 (9th Cir. 2011) (finding salary information for those performing lesser duties is not a comparison to others in the field); *Grimson v. INS*, 934 F. Supp. 965, 968 (N.D. Ill. 1996) (considering NHL enforcer's salary versus other NHL enforcers); *Muni v. INS*, 891 F. Supp. 440, 444-45 (N. D. Ill. 1995) (comparing salary of NHL defensive player to salary of other NHL defensemen). Accordingly, the Petitioner must compare the Beneficiary's income with income earned by those in her field as an editor-in-chief and managing director during the same time period. We find that the evidence in the record is insufficient to demonstrate that the Beneficiary has commanded a high salary in relation to others in her field.

Based on the above, the Petitioner has not established that the Beneficiary meets this criterion.

B. Contract Requirements

Although not addressed in the decision, the Petitioner's employment agreement with the Beneficiary does not specify the Beneficiary's wage, as required. The Petitioner indicated on the Form I-129 that it would employ the Beneficiary in the position of "U.S. Executive Editor" of its [redacted] magazine at an annual salary of $90,620.76. Within its initial submission, the Petitioner provided a copy of its employment agreement with the Beneficiary dated February 2019, assigning to the Beneficiary the representation of [redacted] magazine in the United States. The agreement provides that the Beneficiary's duties for the requested three-year validity period will be to "generate reports related to the cultural life and lifestyle of the [United States]. . . arrange and elaborate interviews with select members of the [redacted] American community as well as with well-known American artists in [redacted] . . . [and] represent the publication in forums, seminars, book presentations and other special events in the [United States.]"

The regulation at 8 C.F.R. § 214.2(o)(2)(ii)(B) provides that petitions for O foreign nationals shall be accompanied by copies of any written contracts between a petitioner and the beneficiary or, if there is no written contract, a summary of the terms of the oral agreement under which the beneficiary will be employed. A written contract or, if there is none, a summary of the terms of the oral agreement under which a beneficiary will be employed, must specify the wage offered and explain the terms and conditions of the beneficiary's employment. Upon review, the Petitioner has not satisfied the requirements set forth in the regulations because the employment agreement has not included a description of the wage offered or an agreed upon fee structure, or otherwise indicated how the Beneficiary will be paid. The appeal will be dismissed on this additional basis.

III. CONCLUSION

The record does not satisfy, as required, the evidentiary criteria applicable to individuals of extraordinary ability in business: a major, internationally recognized award or at least three of eight possible forms of documentation. 8 C.F.R. § 214.2(o)(3)(iii)(A)-(B). In addition, the record does not contain evidence sufficient to explain the terms of the Beneficiary's proposed employment. 8 C.F.R. § 214.2(o)(2)(ii)(B). Consequently, the Petitioner has not established that the Beneficiary is eligible for the O-1 visa classification 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.