U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 43196732

Date: AUG. 25, 2026

Appeal of U.S. Citizenship and Immigration Services (USCIS) Decision

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

The Petitioner, a multimedia host and creative producer, 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.

USCIS denied the petition, concluding that the record did not establish that the Petitioner met the initial evidentiary requirements through evidence of a one-time achievement or meeting at least three of the evidentiary criteria at 8 C.F.R. § 204.5(h)(3). The matter is now before us on appeal pursuant to 8 C.F.R. § 103.3.

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). We review the questions in this matter de novo. *Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon de novo review, we will dismiss the appeal.

I. LAW

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 his or her achievements in the field through a one-time achievement (that is, a major, internationally recognized award). If that petitioner does not submit this evidence, then he or she must provide sufficient 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). If an evidentiary standard under 8 C.F.R. § 204.5(h)(3)(i)-(x) does not "readily apply" to a petitioner's occupation, the petitioner may submit "comparable evidence" to establish eligibility. 8 C.F.R. § 204.5(h)(4).

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, 1121 (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 Amin v. Mayorkas*, 24 F.4th 383, 394 (5th Cir. 2022) (upholding USCIS' two-step review process as "consistent with the governing statute and regulation").

II. ANALYSIS

A. Evidentiary Criteria

Because the Petitioner has not indicated or established that she has received a major, internationally recognized award, the issue to be addressed on appeal is whether the Petitioner satisfied at least three of the alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x). In denying the petition, USCIS determined that while the Petitioner fulfilled two criteria, published materials about the individual in professional publications and leading or critical role for organizations with a distinguished reputation, she did not fulfill the four addition claimed criteria. On appeal, the Petitioner asserts that she meets the same four evidentiary criteria:

- (vi), authorship of scholarly articles in the field, in professional or major trade publications or other major media
- (vii), display of her work in the field at artistic exhibitions or showcases
- (ix) evidence that the alien has commanded a high salary or other significantly high remuneration for services, in relation to others in the field, or
- (x) documentation of commercial successes in the performing arts, as demonstrated by evidence comparable to box office receipts or record, cassette, compact disk, or video sales.

Upon de novo review, the Petitioner has not demonstrated she meets at least three of the initial evidentiary criteria.[1]

[1] While we may not discuss every document submitted, we have reviewed and considered each one.

The Petitioner argues that USCIS did not fully consider all of the evidence submitted and did not properly weigh the evidence under the preponderance of the evidence standard. Under the preponderance standard, we consider not only the quantity, but also the quality of the evidence, including its relevance, probative value, and credibility. *Matter of Chawathe*, 25 I&N Dec. at 376; *see also Matter of E-M-*, 20 I&N Dec. 77, 79-80 (Comm'r 1989). When USICS provides a reasoned consideration to the petition and has made adequate findings, it will not be required to specifically address each claim the petitioner makes, nor is it necessary for it to address every piece of evidence the petitioner presents. *Guaman-Loja v. Holder*, 707 F.3d 119, 123 (1st Cir. 2013) (citing *Martinez v. INS*, 970 F.2d 973, 976 (1st Cir. 1992); *see also Kazemzadeh v. U.S. Atty. Gen.*, 577 F.3d 1341, 1351 (11th Cir. 2009); *Casalena v. U.S. INS*, 984 F.2d 105, 107 (4th Cir. 1993). After reviewing all evidence in the record, we conclude that she does not meet any of the claimed criteria.

> *Evidence of the alien's authorship of scholarly articles in the field, in professional or major trade publications or other major media.* 8 C.F.R. § 204.5(h)(3)(vi).

This criterion contains multiple evidentiary elements the Petitioner must satisfy through the submission of evidence. The first element is that the Petitioner is an author of scholarly articles in her field. We consider these articles to fall within two distinct areas. One area is within the academic arena in which a scholarly article reports on original research, experimentation, or philosophical discourse. *See generally* 6 *USCIS Policy Manual, supra*, at F.2(B)(1). It is written by a researcher or expert in the field who is often affiliated with a college, university, or research institution. *Id.* In general, it should have footnotes, endnotes, or a bibliography, and may include graphs, charts, videos, or pictures as illustrations of the concepts expressed in the article. *Id.* The second area lies outside of the academic arena in which a scholarly article should be written for learned persons in that field. *Id.* Learned persons include all persons having profound knowledge of a field. *Id.*

The second evidentiary element of this criterion is that the scholarly articles appear in one of the following: (1) a professional publication, (2) a major trade publication, or (3) in a form of major media. Regarding the medium in which the articles appear, the Petitioner should establish that for major media the publication's circulation statistics are high relative to similar publications and that for professional journals the publication's intended audience. *Id.*

On appeal, the Petitioner asserts that she satisfies this criterion based on five articles she authored for *The Press & Journal*. The articles include [redacted] The Petitioner emphasizes that *The Press & Journal* was established in 1747 and has been recognized as Scotland's newspaper of the year.

While the Petitioner claims the materials meet the criterion based on scholarly articles written for learned persons in her field, evidence in the record contradicts her assertions. The submitted articles concern travel destinations and tourism and appear directed toward the newspaper's general readership. The Petitioner did not provide sufficient evidence to establish that the general readership of this newspaper qualifies as learned persons. Moreover, the Petitioner identifies her field of expertise as that of a multimedia host and creative producer, but she has not sufficiently explained or documented how travel articles constitute scholarly articles in that field. Although the articles may demonstrate the Petitioner's experience as a writer and or media professional, the record does not

establish that they report on scholarly research or discourse, are intended to learned persons possessing profound knowledge of her field or otherwise constitute scholarly articles in her claimed field of expertise.

For the reasons discussed, the Petitioner has not established meeting this criterion.

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

The Petitioner claims eligibility under this criterion based on her participation in the [redacted] She asserts that these events or projects constitute artistic exhibitions of showcases at which she displayed her work in the field.

The record does not establish that the Petitioner displayed her work in her field at artistic exhibitions or showcases. Although the [redacted] include artistic performances, the evidence reflects that the Petitioner participated as a host. In addition, the evidence regarding [redacted] reflects her work as a host or interviewer at events involving [redacted] culture. Similarly, the evidence concerning the Travel XP television series demonstrates that her work was broadcast to television audiences. The Petitioner emphasizes the cultural or artistic nature of these events. However, the relevant inquiry is whether her work was displayed at an artistic exhibition or showcase, not whether she performed professional work at an event that also featured artistic performances. The record indicates that these events showcased the work of musicians, dancers, and other performers, while the Petitioner served as a host, interviewer, or presenter. Her participation in the events dues not, without more, establish that her own work was displayed at an artistic exhibition or showcase.

Similarly, the record described [redacted] as an educational competition covering several academic subjects and [redacted] as a tourism organization. The Petitioner has not established that either event constitutes an artistic exhibition or showcase.

Accordingly, the Petitioner has not established that she satisfies this criterion.

Evidence that the alien has commanded a high salary or other significantly high remuneration for services, in relation to others in the field. 8 C.F.R. § 204.5(h)(3)(ix).

To meet this criterion, the Petitioner must establish that her salary or remuneration is high relative to the compensation paid to others working in the field. *See generally* 6 *USCIS Policy Manual, supra*, at F.2(B)(1). Evidence relevant to demonstrating high remuneration may include: (1) tax returns, pay statements, or other evidence of past salary or remuneration for services, (2) contract, job offer letter, or other evidence of prospective salary or remuneration for services, and (3) comparative wage or remuneration data for the person's field, such as geographical or position appropriate compensation surveys. *Id.* Evidence regarding whether the person's compensation is high relative to that of others working in the field may include: (1) geographical or position appropriate compensation surveys and (2) organizational justifications to pay above the compensation data. *Id.*

The Petitioner contends she has commanded high remuneration based on several short-term hosting and content-creation engagements. The initial filing presented the Petitioner's annual income as $92,304. In response to the request for evidence, the Petitioner presented evidence of project rates. The Petitioner submitted evidence that she received $10,000 for a short-form video for [redacted] $5,000 for a video associated with a [redacted] campaign, $1,000 per day for hosting [redacted] events, $6,750 for hosting and promotional work for the [redacted], and $3,000 for hosting a 90-minute [redacted] event. The Petitioner compares these amounts to compensation information for content creators, event hosts, television presenters, and broadcast announcers.

The submitted comparisons do not establish that the Petitioner received significantly high remuneration compared to others performing similar services. For example, the Petitioner converts her $3,000 payment for a 90-minute event to an hourly rate of $2,000 per hour and compares that amount to annual salary and hourly wage data for event hosts and broadcast announcers and actors. Similarly, she converts her $1,000 daily hosting fee to an hourly rate and compares it to salary data for event hosts. However, the Petitioner does not show that annual or hourly wages for these occupations are comparable to payments for individual, short-term hosting engagements. Nor does the record establish that the stated engagement period accounts for all of the time associated with those services, such as preparation, rehearsals, travel, or related promotional activities. In addition, the Petitioner's $6,750 [redacted] contract included both on-site hosting and promotional videos, but she compares the total contract amount to annual salary data for television presenters. Here, converting the payment for a single engagement into an hourly rate does not provide a reliable basis for comparison. Further, the [redacted] projects do not sufficiently establish the compensation ordinarily received by similarly situated multimedia hosts or content creators for comparable individual projects. Moreover, the Petitioner did not sufficiently demonstrate that these positions involve sufficiently similar duties or methods of compensation to provide a meaningful comparison.

We acknowledge that the Petitioner received substantial payments for several individual engagements but the issue is whether those payments were significantly high compared to the remuneration received by others performing similar work. The submitted wage information does not provide a sufficiently meaningful comparison to establish this requirement. Accordingly, the Petitioner has not established that she meets this criterion.

> *Evidence of commercial successes in the performing arts, as showing by box office receipts or record, cassette, compact disk, or video sales. 8 C.F.R. § 204.5(h)(3)(x).*

The regulation at 8 C.F.R. § 204.5(h)(3)(x) requires evidence of the Petitioner's commercial success, "as shown by box office receipts or record, cassette, compact disk or video sales." This criterion focuses on volume of sales and box office receipts as a measure of the person's commercial success in the performing arts. The evidence must show that the volume of sales and box office receipts reflect the person's commercial success relative to others involved in similar pursuits in the performing arts. *See generally* 6 *USCIS Policy Manual, supra*, at F.(2)(B)(1), Criterion 10.

USCIS found that the Petitioner did not submit evidence to meet the plain language of this criterion, pointing out that the submitted evidence did not show commercial successes in the performing arts, as shown by box office receipts or music sales. The Petitioner contends that she meets this criterion

based on attendance and viewership associated with events and productions for which she worked as a host or presenter. The Petitioner points to, among other things, attendance at the [redacted] sold-out [redacted] events, attendance at [redacted] and the international distribution of the 50 States television series.

The evidence does not establish the Petitioner's commercial successes in the performing arts. The regulation looks to commercial success, such as box office receipts or sales, rather than simply the size of the audience. In addition, the evidence does not show that their attendance resulted from the Petitioner's work as a host or presenter. The Petitioner argues that attendance at sold-out events where she was the feature host is the equivalent to box office receipts. Evidence that an event attracted a large audience does not, without more, establish the Petitioner's commercial success in the performing arts. The record does not show that audiences attended these events because of the Petitioner, that her participation increased ticket sales or viewership, or that the attendance figures otherwise reflect her commercial success relative to others in the field.

On appeal, the Petitioner simply cites to the comparable evidence provision at 8 C.F.R. § 204.5(h)(4) that allows for comparable evidence if the listed criteria do not readily apply to his occupation. *See* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(2). The regulation at 8 C.F.R. § 204.5(h)(4) states "[i]f the above standards do not readily apply to the beneficiary's occupation, the petitioner may submit comparable evidence to establish the beneficiary's eligibility." This regulatory provision provides petitioners the opportunity to submit comparable evidence to establish the person's eligibility, if it is determined that the evidentiary criteria described in the regulations do not readily apply to the person's occupation. *Id.* When evaluating such comparable evidence, we must consider whether the regulatory criteria are readily applicable to the person's occupation and, if not, whether the evidence provided is truly comparable to the criteria listed in that regulation. Here, the Petitioner did not demonstrate that this criterion does not apply to her occupation, nor does she articulate how the evidence submitted is comparable in meeting the particular criterion. A general unsupported assertion that the evidentiary criterion does not readily apply to the petitioner's occupation is not probative. *See Javakhadze v. Mayorkas,* No. 3:21-CV-00617-E, 2023 WL 8037730, at *6 (N.D. Tex. Nov. 20, 2023) (finding plaintiff did not establish eligibility for comparable evidence because brief did not explain how or why the criterion did not apply to the plaintiff's occupation).

Accordingly, the Petitioner has not established that she meets this criterion.

III. CONCLUSION

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. *Matter of Price*, 20 I&N Dec. 953, 954 (Assoc. Comm'r 1994) (concluding that even major league level athletes do not automatically meet the statutory standards for classification as an individual of "extraordinary ability *Visinscaia v. Beers*, 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 v. USCIS*, 596 F.3d 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. 2002) (finding that "arguably one of the most famous baseball players in Korean history" did not qualify for visa as a baseball coach).

Here, 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. 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 the Petitioner has garnered national or international acclaim in the field, and she 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 record does not contain sufficient evidence establishing the Petitioner among the upper echelon in her field.

For the reasons discussed above, the Petitioner has not demonstrated her eligibility as an alien of extraordinary ability. The appeal will be dismissed for the above-mentioned reasons, with each considered as an independent and alternate basis for the decision.

ORDER: The appeal is dismissed.

NOTICE: This constitutes the final decision in this matter. The filing of a motion will not postpone the effect of the decision. 8 C.F.R. § 103.5(a)(1)(iv). Aliens who are not lawfully present, or who are otherwise inadmissible or deportable, may be subject to the commencement of removal proceedings under section 240 of the Act through the issuance of a Form I-862, Notice to Appear. Those proceedings may result in their removal from the United States and possible ineligibility for future visas or other immigration benefits.