U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 40100686

Date: JUL. 6, 2026

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

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

The Petitioner, a singer, 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.

USCIS denied the petition, concluding the record did not establish the Petitioner qualifies as an individual of extraordinary ability either as the recipient of a major, internationally recognized award, or that she meets at least three of the ten regulatory criteria listed at 8 C.F.R. § 204.5(h)(3)(i) – (x). 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 immigrant visas available to individuals 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, provided that the individual seeks to enter the United States to continue work in the area of extraordinary ability, and the individual'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 international recognition of his or her achievements in the field through a one-time achievement (that is, a major, internationally recognized award). If the petitioner does not submit this evidence, then he or she must provide sufficient qualifying documentation 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). The regulation at 8 C.F.R. § 204.5(h)(4) allows a petitioner to submit comparable evidence if they are able to demonstrate that the standards at 8 C.F.R. § 204.5(h)(3)(i)–(x) do not readily apply to the individual's occupation.

Where a petitioner meets these initial evidence requirements, we then consider the totality of the material provided in a final merits determination and assess whether the record shows sustained national or international acclaim and demonstrates that the individual is among the small percentage at the very top of the field of endeavor. *See Kazarian v. USCIS*, 596 F.3d 1115 (9th Cir. 2010) (discussing a two-part review where the documentation is first counted and then, if fulfilling the required number of criteria, considered in the context of a final merits determination); *see also Visinscaia v. Beers*, 4 F. Supp. 3d 126, 131-32 (D.D.C. 2013); *Rijal v. USCIS*, 772 F. Supp. 2d 1339 (W.D. Wash. 2011).

II. ANALYSIS

The Petitioner is a gospel music singer who proposes to come to the United States to continue in her field. Because she has not indicated or established that she has received a major, internationally recognized award, she must satisfy at least three of the alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x). The Director determined that the Petitioner met two of the initial evidentiary criteria; published material in major media and display of work at an artistic exhibition or showcase. 8 C.F.R. § 204.5(h)(3)(iii) and (vii).[1] While the Director concluded that the Petitioner did not meet at least three of the initial evidentiary criteria, the Director conducted a final merits determination and found that the Petitioner is not eligible for the extraordinary ability classification. On appeal, the Petitioner maintains that she fulfills the six additional criteria discussed below. Upon de novo review, we conclude that the record does not support a finding that the Petitioner satisfies the requirements of at least three criteria and therefore is not eligible for the extraordinary ability criteria.

A. Awards

The regulation at 8 C.F.R. § 204.5(h)(3)(i) calls for "[d]ocumentation of the alien's receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor." We first determine whether the alien is the recipient of prizes or awards, and then whether the award is nationally or internationally recognized and was granted based upon excellence in the alien's field of endeavor. *See generally* 6 *USCIS Policy Manual* F.2(B)(1), www.uscis.gov/policy-manual. 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. *Id.*

Although the record demonstrates that the Petitioner has received numerous awards, we conclude that the evidence does not establish that these awards are nationally or internationally recognized or that

[1] We note that the Director states that the Petitioner meets the awards criterion after stating that the Petitioner does not meet the awards criterion and providing an analysis on why the Petitioner does not meet this criterion. This appears to be a typographical error, and we withdraw this statement. Therefore, we confirm that the Director determined that the Petitioner did not meet the criterion related to awards. 8 C.F.R. § 204.5(h)(3)(i).

they were awarded for excellence in the field of endeavor. The Petitioner asserts on appeal that the Director minimized the submitted evidence which includes information on the reputation of the organizations that issued the awards. For example, the Petitioner highlights her award from the [redacted]. The record contains a photograph of the "Award of Excellence," which states that the Petitioner received the "1st Prize Winner Award, [redacted] 2022." The Petitioner contends that [redacted] "is one of the most prominent indigenous churches in Nigeria" and submitted the church's website pages to corroborate her statement. A church's website information on the history and statistics of their church, however, does not establish a prize's national or international recognition. *See Krasniqi v. Dibbins*, 558 F. Supp. 3d 168, 183 (D.N.J. 2021) ("[A]s reflected in the regulation's plain text, the focus is on the award, not the awarding organization.") (emphasis in original). Here, the Petitioner did not demonstrate how the evidence establishes that the broader gospel music field recognizes the church's award as a national or international award for excellence. The Petitioner must show how others beyond the church viewed her award. *See Visinscaia v. Beers*, 4 F. Supp. 3d at 136 (D.D.C. 2013) ("Without evidence of how a larger audience viewed Plaintiff's awards, there was no way for the agency to evaluate whether those awards were recognized widely enough to satisfy this criterion.")[2] Moreover, the Petitioner did not establish that [redacted] "Award of Excellence" is a nationally or internationally recognized for excellence in the field of endeavor consistent with this regulatory criterion. For example, the record does not contain information on the criteria used to grant this award. Therefore, the record does not demonstrate that this award meets the criterion.

The Petitioner also submitted evidence that she was awarded the "Icon Award" from the [redacted]. Here too, the record contains website pages about the [redacted] organization, but this evidence does not establish the broader gospel music field recognizes this award as a national or international award and the record does not contain information on the criteria to receive the award. Therefore, we cannot determine that this award was for excellence in her field.[3] The record further contains awards from various organizations, similarly lacking documentation about each award's national or international recognition and the necessary criteria as described above. Additionally, the record contains awards the Petitioner received that do not relate to her field of endeavor. For example, the Petitioner and her husband received the '[redacted]" for being "A dedicated Couple to God's Work" and the "Global Award of Excellence" for "raising Godly children in the fear of God." Awards such as these do not relate to her proposed field of endeavor as a singer. For the reasons above, the record does not demonstrate that the Petitioner meets this criterion.

B. Membership

The regulation at 8 C.F.R. § 204.5(h)(3)(ii) calls for "documentation of the alien's membership in associations in the field for which classification is sought." In addition, the association must require "outstanding achievements of their members, as judged by recognized national or international experts in their disciplines or fields." Once membership in a qualifying association has been established, we determine whether the association requires those at the alien's level of membership to have attained

[2] *See* USCIS Policy Memorandum PM 602-0005.1, *supra*, at 6 (instructing that an award limited to competitors from a single institution, for example, may have little national or international significance).

[3] We also note that in a review of the awards [redacted] is issuing, there is no "Icon Award" listed. The photograph of the Petitioner's award also does not include the date this award was issued on, so the veracity of the award cannot be verified.

outstanding achievements in the field. *See generally* 6 *USCIS Policy Manual* F.2(B)(1), www.uscis.gov/policy-manual.

The Petitioner submitted an identity card for her membership in the [redacted] and a letter from the [redacted] confirming her membership. The Petitioner contends that the Director's decision was "legally erroneous, factually unsupported, and constitutes a clear abuse of discretion" in its determination that the Petitioner had not established this criterion. The letter from [redacted] states that the Petitioner, "met and surpassed all the criterion" to be member, but the record does not establish what those criteria are. The Petitioner asserts that the letter states that to be a member, an individual must have "extraordinary contributions to gospel music; humanitarian outreach; global influence and have certain awards." However, the letter does not corroborate the Petitioner's assertions. Instead, the letter states that the Petitioner released an album in 1999 and that her "humanitarian input, service and philanthropic contributions cannot be overlooked" and that the Petitioner received awards from [redacted] for her work. However, the letter does not demonstrate what is required to become a member of [redacted]. Further the letter does not establish that the Petitioner's achievements have been judged by recognized national or international experts in the field. For the foregoing reasons, the evidence does not demonstrate that the associations in the field which the Petitioner belongs require outstanding achievements of their members as judged by recognized experts.

C. Published Materials

The regulation at 8 C.F.R. § 204.5(h)(3)(iii) requires "[p]ublished 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." These materials must include "the title, date, and author of the material, and any necessary translation." *Id.* The published material should be about the alien and their work, rather than the alien's employer and its work (or about an organization and its work). Professional or major trade publications may be identified by their intended audience, while other major media and major trade publications should have elevated circulation or readership relative to other media in the field. *See generally* 6 *USCIS Policy Manual* F.2(B)(1), www.uscis.gov/policy-manual.

The Director concluded that the Petitioner satisfied the requirements of this criterion. Closer examination of the record, however, does not support this conclusion. The Petitioner submitted printouts of nine online articles. Two of the articles are interviews about the Petitioner's marriage and are not related to her work as a gospel singer. Therefore, they cannot be considered for this criterion. In addition, the record contains an article from The Nation Newspaper and article from City People listing two different authors; however, the language of the articles is nearly identical. Further, the record contains three articles, from The Nation, The Sun, and The Nigerian Tribune; with different titles, different author names, or with no author name, that have the exact same language. This raises questions about whether these articles were written by these individuals as the articles are identical but list different authors. The Petitioner must resolve these inconsistencies in the record with independent, objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988). Unresolved material inconsistencies may lead us to reevaluate the reliability and sufficiency of other evidence submitted in support of the requested immigration benefit. *Id.; see also Matter of O-M-O-*, 28 I&N Dec. 191, 197 (BIA 2021) ("by submitting fabricated evidence, the

appellant compromised the integrity of his entire claim") (cleaned up). As there are unresolved inconsistencies in the record regarding these articles, we will not consider them for this criterion. The record additionally contains an article to announce the Petitioner released a new song. This article appears to be more of a marketing article than an article about the Petitioner's work in the field, therefore it also does not qualify for this criterion. Lastly, the Petitioner submitted an article from BBC news that does not appear to be about the Petitioner. Therefore, for the above reasons, we disagree and withdraw the Director's conclusion that the Petitioner satisfies the requirements of 8 C.F.R. § 204.5(h)(3)(iii).

D. 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 alien must show that they not only have been invited to participate as a judge of the work of others in their field, but also that they have actually participated in such judging. *See generally* 6 *USCIS Policy Manual* F.2(B)(1), www.uscis.gov/policy-manual. Examples of judging may include peer review for a scholarly journal, conference, or government research funding program or serving as a member of a Ph.D. dissertation committee. *Id.*

The Petitioner contends that the Director dismissed credible and probative documentation related to this criterion. She submitted letters from two organizations appointing her as a judge in their talent hunts as well as photos of the Petitioner. She contends the photos were taken by the press and show her arriving at one of the talent hunts. However, the photos are not persuasive as they are not dated. Further, the caption on the photo does not contain any of the names in the appointment letters. In addition, though the Petitioner states that they were taken by the press, they are not connected to a news article or contain any information to corroborate where they are from. Without further evidence reflecting her participation as a judge of the work of others, we agree with the Director that the evidence does not sufficiently demonstrate that she meets this criterion.

E. 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." A petitioner may show that their contributions have been widely implemented throughout the field, have remarkably impacted or influenced the field, or have otherwise risen to a level of major significance. *See Visinscaia*, 4 F. Supp. 3d at 134-35. Relevant evidence of the significance of an original contribution may include, but is not limited to:

- Published materials about the significance of the alien's original work;
- Letters providing details about how the alien's original work has been significant in the field;
- Citation of the alien's published scholarly work at a level indicative of major significance; and
- Patents or licenses deriving from the alien's work or evidence of its commercialization.

See generally 6 *USCIS Policy Manual* F.2(B)(1), www.uscis.gov/policy-manual.

The Petitioner contends she meets this criterion as she submitted appointment letters for her positions as a brand ambassador for [redacted] and a radio presenter for [redacted] as well as expert testimonials in support of her work. However, the letters in the record do not provide enough information to be considered evidence of the Petitioner's original contributions of major significance in her field. The letter from [redacted] that appoints her as their brand ambassador speaks of her "reputable track recor[d] in the Gospel Music Industry and the huge contributions. . . towards the development of the society." However, the letter does not detail her track record in the industry or any contributions she has made. Similarly, the letter confirming her position as a radio presenter also does not satisfy this criterion. The letter states that the Petitioner's contributions "have greatly enriched [their] programming" and that her show has "become a staple for [the] listeners, drawing significant engagement each week." However, the record does not contain information showing the Petitioner's radio show has made a significant contribution to the radio station's engagement. A petitioner must support assertions with relevant, probative, and credible evidence. *See Matter of Chawathe,* 25 I&N Dec. at 376.

In response to the request for evidence (RFE), the Petitioner submitted support letters which she asserts, discuss her contributions of major significance. First, she provides a letter from the "Ministry of Culture and Tourism" which states they "wish to acknowledge [the Petitioner's] immeasurable and extraordinary contributions to both spiritual and humanitarian endeavors." The letter explains the Petitioner's work with imprisoned individuals and underprivileged youth and her "contributions to the development of cultural and spiritual tourism." Here too, this does not detail her work in the gospel music industry but in humanitarian and tourism endeavors. While we acknowledge her work in those fields, they do not establish significant contributions to the gospel music field. The Petitioner also submitted an additional letter from [redacted], which states that her "unwavering dedication and exceptional contributions to the Gospel Music Industry have been a source of inspiration and profound impact for countless individuals;" however, the letter does not detail what "exceptional contributions" and "profound impact" the Petitioner has made. The letter further discusses her humanitarian efforts, which do not establish original contributions of significance to the field of gospel music singing. On appeal, the counsel for the Petitioner asserts that "gospel music is inherently interwoven with faith, cultural leadership, and service." However, counsel's unsubstantiated assertions do not constitute evidence. *See, e.g., Matter of S-M-*, 22 I&N Dec. 49, 51 (BIA 1998) ("statements in a brief, motion, or Notice of Appeal are not evidence and thus are not entitled to any evidentiary weight"). As the letters in the record do not sufficiently specify her original contributions or how any contributions were of major significance in her field, we cannot conclude that she meets this criterion.

F. 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." The role may be shown to be leading or critical for a division or department of an organization or establishment, or for the organization or establishment overall. Evidence of a leading role should show that the alien was a leader for the claimed component, and a job title with matching duties may help top establish that a role was leading. For a critical role, evidence should show that the alien has contributed in a way that is of significant importance to the outcome of the organization or establishment's activities or those of a division or department of the organization or establishment. In determining whether the organization or establishment, or a department or division thereof, has a

distinguished reputation, relevant factors include its size, longevity, scale of its customer base, and relevant media coverage. *See generally* 6 *USCIS Policy Manual* F.2(B)(1), www.uscis.gov/policy-manual.

The appointment letter from [redacted] states that she is to be the "face of[the] brand" for four years." The Petitioner contends that this position is a leading and critical role because it involves public engagement, promotion, the direct association of the Petitioner with the brand's image and mission, and that she has actively participated in their campaigns. However, the record does not contain corroborating evidence of these details, aside from the appointment letter. Further, the Petitioner has not established that [redacted] is a reputable organization. The record contains a document from [redacted], introducing "[redacted], one of Nigeria's fastest growing media enterprises." It is unclear how [redacted] and [redacted] are related or how this letter further establishes the reputable reputation of the organization.

The employment letter from [redacted] states that the Petitioner hosts a weekly show which is known for its inspirational content. The letter itself does not explain how the Petitioner is in a leading or critical role as a radio presenter, aside from hosting a show for the radio station. The record does not contain any information on how this role is leading or critical. In addition, the Petitioner seeks to establish the radio station is a reputable organization through [redacted] own website pages which list their digital audience reach. However, the record does not contain objective, corroborating information or comparable information in order to determine that having a certain member of accounts reached on social media demonstrates the reputable reputation of the organization. Without more, we cannot conclude that the Petitioner meets this criterion.

G. Salary

The regulation at 8 C.F.R. § 204.5(h)(3)(ix) calls for "evidence that the alien has commanded a high salary or other significantly high remuneration for services, in relation to others in the field." A credible employment contract or job offer may establish that an alien "has commanded" such salary or remuneration, as may evidence of past earnings such as tax returns and pay statements. Comparative wage or remuneration data that is appropriate for the alien's occupation and location should be submitted to establish that their compensation is high relative to others working in the field. *See generally* 6 *USCIS Policy Manual* F.2(B)(1), www.uscis.gov/policy-manual.

The Petitioner asserts her eligibility for this criterion based on her salary as a brand ambassador and radio presenter. She submitted evidence, comparing her salary to the average salary in Nigeria and the average salary of a musician in Nigeria. In response to the RFE, the Petitioner states that she also earns a higher salary than the reported monthly earnings for a singer in Nigeria. However, the record does not contain documentation to support this claim and as stated above, counsel's unsubstantiated assertions do not constitute evidence. *See, e.g., Matter of S-M-,* 22 I&N Dec. at 51. Furthermore, the average salary in Nigeria, the average salary for a musician in Nigeria, and the average salary of a singer in Nigeria, are not comparable to the salary for a brand ambassador or a radio presenter. Based on these deficiencies in the evidence, the Petitioner has not submitted documentation that meets the plain language requirements of this criterion.

III. CONCLUSION

Congress set a very high benchmark for aliens of extraordinary ability by requiring the petitioner demonstrate "sustained national or international acclaim" and present "extensive documentation" to show his or her achievements have been recognized in the field. Section 203(b)(1)(A)(i) of the Act. Because the Petitioner has not satisfied the threshold "initial evidence" requirements at 8 C.F.R. § 204.5(h)(3), we cannot conclude that she is an alien of extraordinary ability and need not further analyze the merits under the statute. *See Kazarian*, 596 F.3d at 1119-20; *see also Nagaiah v. Allen*, 784 F. Supp. 3d 798, 814 (E.D. Pa. 2025) (finding the regulation "establishes a necessary, not sufficient, evidentiary requirement for a petitioner who seeks an extraordinary ability visa."). Therefore, we decline to reach and hereby reserve any final merits determination in this matter. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (per curiam) (holding that agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision).

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. In visa petition proceedings, the petitioner bears the burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Skirball Cultural Ctr.*, 25 I&N Dec. 799, 806 (AAO 2012). Here, that burden has not been met.

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.