U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 8756874

Date: JULY 14, 2020

Appeal of California Service Center Decision

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

The Petitioner, an agent, seeks to classify the Beneficiary, an illustrator, as a foreign national of extraordinary ability in the arts. 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 California Service Center denied the petition, concluding that the Petitioner did not satisfy, as required, the evidentiary criteria applicable to individuals of extraordinary ability in the arts, either a significant national or international award or at least three of six possible forms of documentation. 8 C.F.R. § 214.2(o)(3)(iv)(A)-(B).

On appeal, the Petitioner asserts that the previously submitted evidence establishes that the Beneficiary meets at least three of the initial evidentiary criteria and is otherwise qualified for the benefit sought.

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 which 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 arts" as "distinction," and "distinction" as "a high level of achievement in the field of arts evidenced by a degree of skill and recognition substantially above that ordinarily encountered to the extent that a person described as prominent is renowned, leading, or well-known in the field of arts." 8 C.F.R. § 214.2(o)(3)(ii).

Next, DHS regulations set forth the evidentiary criteria for establishing a beneficiary's sustained acclaim and the recognition of achievements. A petitioner must submit evidence either of "significant national or international awards or prizes" such as "an Academy Award, an Emmy, a Grammy, or a Director's Guild Award," or of at least three of six listed categories of documents. 8 C.F.R. § 214.2(o)(3)(iv)(A)-(B). If the petitioner demonstrates that the listed criteria do not readily apply to the beneficiary's occupation, it may submit comparable evidence to establish eligibility. 8 C.F.R. § 214.2(o)(iv)(C).

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 extraordinary ability in the arts. *See* section 101(a)(15)(o)(i) of the Act and 8 C.F.R. § 214.2(o)(3)(ii), (iv).[1]

II. ANALYSIS

The record shows that the Beneficiary was approved for F-1 nonimmigrant classification to attend [redacted] College of Design between 2015 and 2018 in [redacted] California. She subsequently was approved for optional practical training between 2018 and the date when the Petitioner filed the petition on May 18, 2019, during which time she worked as an illustrator on [redacted] projects for companies including [redacted] Studio, [redacted], [redacted] Studios, and [redacted] Studios.[2] The Petitioner seeks to have the Beneficiary work as an illustrator and illustration instructor in the United States for [redacted] Studios, [redacted] College of Design, [redacted] Agency, and [redacted] Expo. The record contains copies of the Beneficiary's employment agreements with those companies, her agent contract with the Petitioner, and an itinerary.

A. The Beneficiary's Eligibility under the Evidentiary Criteria

Because the Petitioner has not indicated or established that the Beneficiary has been nominated for or received a significant national or international award or prize, she must satisfy at least three of the alternate regulatory criteria at 8 C.F.R. § 214.2(o)(3)(iv)(B)(*1*)-(*6*). The Director found that the Petitioner met only two of the evidentiary criteria at 8 C.F.R. § 214.2(o)(3)(iv)(B)(*1*)-(*6*), the criteria relating to lead or starring participation in distinguished productions or events at 8 C.F.R. § 214.2(o)(3)(iv)(B)(*1*) and high salary at 8 C.F.R. § 214.2(o)(3)(iv)(B)(*6*). On appeal, the Petitioner maintains that the evidence satisfies four additional alternate criteria. After reviewing all the evidence in the record, we find that the exhibits do not satisfy at least three of the evidentiary criteria at 8 C.F.R. § 214.2(o)(3)(iv)(B).

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[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."

[2] The records of the U.S. Citizenship and Immigration Services (USCIS) indicate that, subsequent to the filing of the petition, the Beneficiary was approved for F-1 nonimmigrant classification to attend [redacted] College of Art and Design in [redacted] California.

> *Evidence that the alien has performed, and will perform, services as a lead or starring participant in productions or events which have a distinguished reputation as evidenced by critical reviews, advertisements, publicity releases, publications, contracts, or endorsements.* 8 C.F.R. § 214.2(o)(3)(iv)(B)(*1*).

The Director determined that the record establishes that the Beneficiary has performed and will perform as a lead or starring participant in productions or events which have a distinguished reputation. Upon review, the record supports the Director's determination. The Petitioner has submitted evidence in the form prescribed sufficient to establish that the Beneficiary satisfies the criterion. The Petitioner has submitted evidence establishing the distinguished reputation of the animated series [redacted] We find that, based on the Beneficiary's past and proposed role as one of four illustrators on the series, that the Petitioner has established that the Beneficiary has performed and will perform in a lead or starring role for productions or events which have a distinguished reputation.

Based on the above, the Petitioner has established that the Beneficiary satisfies the requirements of this regulatory criterion.

> *Evidence that the alien has achieved national or international recognition for achievements evidenced by critical reviews or other published materials by or about the individual in major newspapers, trade journals, magazines, or other publications.* 8 C.F.R. § 214.2(o)(3)(iv)(B)(*2*).

The Director determined that the Petitioner did not satisfy this criterion. We agree. Specifically, the Petitioner did not demonstrate published material about the Beneficiary in major newspapers, trade journals, magazines, or other major media. The record reflects that the Petitioner submitted a short article published on the websites pe.com and ocregister.com after the 2018 premiere of the movie [redacted] The article, showing the Beneficiary's fan art of the fashion looks of several actresses in the film posted on her Twitter page, notes that she is a student at the [redacted] College of Design, and indicates that the works are for sale. The record also contains screenshots from characterdesignreferences.com, nguoi-viet.com, and voyagela.com reflecting interviews of the Beneficiary. However, the evidence submitted does not demonstrate that those websites are a major medium.[3]

The Petitioner offered screenshots from *Similar Web* regarding rankings and "traffic overview" for pe.com, and ocregister.com. For example, *Similar Web* reflects that the website has a global ranking of 77,537, a country ranking of 16,284, and total visits of "951.50K." It also indicates that ocregister.com has a global ranking of 27,057, a country ranking of 5,212, and total visits of "3.03M." In addition, *Similar Web* shows that characterdesignreferences.com has a global ranking of 183,842, a country ranking of 135,087, and total visits of "312.63K." Further, *Similar Web* provides that nguoi-viet.com has a global ranking of 25,024, a country ranking of 5,805, and total visits of "2.55M," and

[3] The record also reflects screenshots from kotaku.com showing some of the Beneficiary's artwork, and from conceptartempire.com reflecting an interview of the Beneficiary, however, these articles were published subsequent to the filing of the petition on May 18, 2019. 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).

voyagela.com has total visits of "144.50K." However, although she provides evidence relating to general Internet traffic estimators, the Petitioner did not show the significance of those rankings and viewing statistics or explain how such information reflects status as a major medium. For example, the evidence did not sufficiently establish that the on-line circulation of those publications is high compared to other circulation statistics.[4]

The Petitioner also offered screenshots from *Similar Web* regarding rankings and "traffic overview" for dailynews.com. However, the Petitioner did not demonstrate that any of the submitted articles were posted on dailynews.com. Moreover, for the reasons discussed above, although the Petitioner presented screenshots from *Similar Web* relating to Internet rankings and traffic for dailynews.com, she did not explain the significance of such statistics and how they reflect the website's status as major media.

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

> *Evidence that the alien has performed, and will perform, in a lead, starring, or critical role for organizations and establishments that have a distinguished reputation evidenced by articles in newspapers, trade journals, publications, or testimonials.* 8 C.F.R. § 214.2(o)(3)(iv)(B)(*3*).

To meet this criterion, the Petitioner cites to evidence pertaining to the Beneficiary's past and proposed work as an illustrator. A lead or starring role should be apparent by its position in the overall organizational hierarchy and through the role's matching duties. A critical role should be apparent from a beneficiary's impact on the organization or the establishment's activities. A beneficiary's performance in this role should establish whether the role was critical for the organization or establishment as a whole. The Director concluded, and we agree, that those materials do not satisfy this criterion. Specifically, the Director determined that the Beneficiary's performances were consistent with those of an illustrator but did not establish that she performed in a lead, starring, or critical role for those organizations.

Regarding the Beneficiary's past work experience, the Petitioner provided an employment verification letter from [redacted] a studio manager and creative producer with the animation studio [redacted] Studio, who provides that the Beneficiary worked as an illustrator on the children's adventure series [redacted] "which has been pitched to several production companies," and on [redacted] "currently in development." [redacted] also indicates that the Beneficiary contributed as a background artist on the [redacted] animation series, which "is expected to be purchased for development in the near future." She asserts that the Beneficiary's artworks were "crucial" to those productions, and that she was a "tremendous asset" to [redacted] Studio.

[4] In addition, we note that the translation accompanying the article published on nguoi-viet.com is not accompanied by a translator certification which states that the provided translation from the Vietnamese to English language was complete and accurate, and that the translator is competent to translate from the foreign language into English, in accordance with 8 C.F.R. § 103.2(b)(3).

[redacted] CEO of [redacted] advertising agency, states that the Beneficiary played a lead role for a project for an important client, [redacted], producing a children's book and branded merchandise for the launch of a new creamery. He indicates that the Beneficiary's "illustration skillset was a critical support to our design team for this project." While [redacted] and [redacted] speak very favorably of the Beneficiary's work on specific projects, they did not indicate that they considered the Beneficiary responsible for their company's reputation in advertising or animation design.

In two letters, [redacted] an artwork director at [redacted] Studios, indicates that the Beneficiary worked as a background artist on the network's upcoming animated television series [redacted] He provides that as "one of only three artists" for the show the Beneficiary's work was "crucial for the successful completion of this production." He states that the Beneficiary's work was "outstanding" and "she completed it so quickly that we were able to keep our project on schedule." He describes her as "a tremendous asset to [redacted]"

[redacted] a supervising producer for animated television at [redacted] Studios, confirms that the Beneficiary worked as a background, props and character designer for [redacted] which she describes as a new 52-episode series in the [redacted] franchise which will be produced in China. She states that the Beneficiary was responsible for all background, prop, and character designs and was "essential to the production." In addition, [redacted] an art director for [redacted] Studios, states that the Beneficiary, as one of only four artists for the series, has a critical role in its successful completion. [redacted] also asserts that "[g]iven her impressive abilities and versatility as a creator, [the Beneficiary] has become indispensable to [redacted]" however, he does not specifically articulate how the Beneficiary impacted [redacted] Studio's achievements or reputation.

The reference letters submitted by the Petitioner are not without weight and have been considered above. 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. Upon review, the letters do not detail how the Beneficiary performed in a lead, starring, or critical role for [redacted] Studio, [redacted] Design, [redacted] Studios, or [redacted] Studios.

While a company's staff may consider the Beneficiary's achievements to be of great benefit to the company, the focus of this criterion, based on the plain language of the regulation, is the Beneficiary's role itself. Although the letters speak highly of the Beneficiary's performance, they do not establish her "lead," "starring," or "critical" role. The letters show that her work was consistent with that of a background illustrator and they describe her as having achieved results that met or exceeded the company's expectations. The letters do not establish that her role as an illustrator has been a lead, starring, or critical role for those companies. For example, [redacted], [redacted], [redacted], [redacted] and [redacted] do not distinguish the Beneficiary's position from those of the company's other illustrators, establish how her position fit within the overall hierarchy of the organizations, or demonstrate that she was responsible for the companies' success or standing to a degree consistent

with the meaning of a "critical role." In addition, the fact that the Beneficiary may have played a lead, starring or critical role in several productions is not sufficient to satisfy this criterion's requirements. The letters do not reflect detailed, probative information demonstrating the specific nature and outcomes of her roles with the respective businesses. The record also does not contain the required documentary evidence in the form of articles in newspapers, trade journals, publications or testimonials pertaining to the reputation of [redacted] Studio or [redacted][5]

In addition, the Petitioner must establish that the Beneficiary will provide services as a lead or starring participant for organizations or establishments that have a distinguished reputation. The employment agreements establish that the Beneficiary will work as an illustrator for [redacted] Studios, [redacted] Agency, and [redacted] Expo, and as an illustration instructor for [redacted] College of Design. More specifically, she will continue to work as a "starring background designer" for [redacted] Studio's [redacted] series. In addition, her agreement with [redacted] Agency indicates the Beneficiary will be the illustrator for the recipe and storybook [redacted] by author [redacted] Further, the Beneficiary will be "a starring artist" for [redacted] Expo. Finally, the Beneficiary will be teaching illustration at the [redacted] School of Design in a class titled [redacted] The plain language of the regulation requires "[e]vidence that the alien has performed, and will perform, in a lead, starring or critical role *for organizations or establishments* that have a distinguished reputation." (Emphasis added.) The evidence does not demonstrate how the Beneficiary's role as an illustrator/illustration instructor rises to the level of a lead, starring or critical role for those companies. While the Petitioner has established the Beneficiary's job title on the upcoming illustration and instruction projects, the submitted evidence does not describe how the Beneficiary will contribute to those companies as a whole or how her position fits within the overall hierarchy of the companies. The Petitioner also has not provided evidence, in the form required, sufficient to demonstrate that the [redacted] School of Design, [redacted] gency, or [redacted] Expo enjoy a distinguished reputation.

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

> *Evidence that the alien has a record of major commercial or critically acclaimed successes as evidenced by such indicators as title, rating, standing in the field, box office receipts, motion picture or television ratings, and other occupational achievements reported in trade journals, major newspapers, or other publications.* 8 C.F.R. § 214.2(o)(3)(iv)(B)(*4*).

This criterion specifically requires documentation of commercially or critically acclaimed successes as reported in publications. In the Beneficiary's field, evidence satisfying this criterion would reasonably include evidence of box office receipts, motion picture or television ratings, and similar evidence of tangible achievements in the illustration industry. The Director determined the evidence submitted does not satisfy this criterion, and the record supports that conclusion.

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[5] The Petitioner further asserts that the Beneficiary performed in a lead, starring or critical role for her published book of drawings [redacted] and that its distinguished reputation is evidenced by the fact that it "is available at the college level." The Petitioner has not established, however, that a book constitutes an "organization or establishment" within the meaning of this regulatory criterion.

The Petitioner has submitted materials from *Creative Quarterly* magazine, confirming that in 2019 the Beneficiary's artwork submission was selected as a runner-up in the *Creative Quarterly* competition. These materials do not report evidence equivalent to "box office receipts" or "motion picture or television ratings" as referenced in the regulation, or otherwise provide any factual indicators to establish whether the Beneficiary has achieved "major commercial or critically acclaimed success" in the illustration industry. Assuming the correlation had been established, the record does not include evidence that such critical or commercial success was memorialized in trade journals, major newspapers, or other publications such that her achievement was acknowledged in the industry at-large.

On appeal, the Petitioner maintains that the Director erred in not considering under the "comparable evidence" regulation at 8 C.F.R. § 214.2(o)(3)(iv)(C) testimonial letters, because it claims that this regulatory criterion is not applicable to illustration. Specifically, it argues that the provided testimonials from recognized experts "discussing the importance of *Creative Quarterly*" in the illustration industry should have been considered under this criterion because "box office receipts, ratings, motion picture and television ratings . . . . are not applicable in the case at hand.". While we will examine this evidence below in our discussion of the criterion at 8 C.F.R. § 214.2(o)(3)(iv)(B)(*5*), we determine that the Petitioner has not demonstrated that these letters are comparable to the objective requirements of this regulatory criterion. The letters from several experts in the illustration field, while attesting that the Beneficiary was a runner-up in the *Creative Quarterly* competition, do not detail in what manner being selected as a runner-up in that competition is comparable to a record of major commercial or critically acclaimed successes in the field.[6]

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

> *Evidence that the alien has received significant recognition for achievements from organizations, critics, government agencies, or other recognized experts in the field in which the alien is engaged. Such testimonials must be in a form which clearly indicates the author's authority, expertise, and knowledge of the alien's achievements.* 8 C.F.R. § 214.2(o)(3)(iv)(B)(*5*).

As noted above, the Petitioner submitted several testimonial letters in support of the petition. We determine that the submitted testimonials and other documentary evidence do not satisfy this criterion. This evidence includes letters from experts in the field of illustration, including the Beneficiary's past employers. an art director with the animation studio asserts that the Beneficiary "is a reputable artist," based upon her past work as an illustrator and designer for s He claims that "only highly renowned artists command such vital roles for notable productions such as the ones [the Beneficiary] has been involved in." He also asserts that her having been a runner-up in *Creative Quarterly* is a major achievement in the field," that being selected to exhibit her work at the upcoming Expo "is a testament to her skills and reputation in the industry as an outstanding professional," and her having exhibited at the

[6] We note that documentation from the website of *Creative Quarterly* indicates that the work of the runners-up was published in the magazine's online gallery beginning in July 2019, subsequent to the filing of the petition in May 2019.

[redacted] show at [redacted] Nucleus "solidifies her revered standing in the art world as an artist of distinction." He describes the Beneficiary as "highly regarded" and "known for her creativity and ingenuity."

[redacted] a designer and illustrator with [redacted] states that the Beneficiary "is a highly respected artist who has created impressive works of art for various distinguished productions" such as [redacted] Studio's [redacted] Studio's [redacted] and projects for [redacted] Studio. He also notes that she was selected as a runner-up in the "respected" Creative Quarterly art competition. He claims that the Beneficiary's "unparalleled talent, creativity, and achievements throughout her career, have made her a highly sough[t]-after artist." We note that both [redacted] and [redacted] use identical language in asserting that the Beneficiary is "highly regarded by esteemed professionals and is known for her creativity and ingenuity, given her degree of proficiency in various facets of illustration and design," and claiming they are "certain that, if afforded the opportunity, [the Beneficiary] will continue to create exceptional works, and undoubtedly leave a strong mark in the art industry in the United States." These identical statements in the aforementioned letters suggest that their language was not written independently. While it is acknowledged that the authors have provided their support for this petition, it is unclear whether the letters reflect their independent observations and thus an informed and unbiased opinion of the Beneficiary's work. In evaluating the evidence, the truth is to be determined not by the quantity of evidence alone but by its quality. See *Matter of Chawathe*, 25 I&N Dec. at 376. [redacted] a visual development artist and instructor at [redacted] College of Design, highlights many of the same accomplishments as [redacted] and [redacted] and asserts that the fact that the Beneficiary was selected as "a featured artist" for the upcoming [redacted] Expo in [redacted] 2019 is "a significant accomplishment."[7]

[redacted] of the Society of Illustrators [redacted] confirms that the Beneficiary is a member of the society, and asserts she is "a highly accomplished illustrator" whose "impressive body of work consists of developing artwork for distinguished television series produced by renowned companies such as [redacted] Studios, [redacted] Studios, and [redacted] Studio." She provides that the Beneficiary "was honored as a runner-up in the professional illustration category" in the *Creative Quarterly* [redacted] art competition, which she asserts is "a major achievement in our field." Although she indicates that the Beneficiary's works have "been showcased in notable art galleries such as [redacted] Expo," the record indicates that the inaugural [redacted] Expo did not occur until [redacted] 2019, subsequent to the May 2019 date of [redacted] s letter and date of filing the petition. She states that "[t]hese awards and exhibits "are considered to be significant accomplishments in the industry and clearly suggest that [the Beneficiary] is an artist of great renown." However, the information provided by the Petitioner regarding [redacted] s professional experience indicates work as an assistant production accountant and actress in an [redacted] commercial and does not show that she is a recognized expert in the field of illustration.

[redacted] an art director, indicates he met the Beneficiary at a [redacted] Network event when he purchased her book [redacted] He states that he was impressed by the Beneficiary's work and asserts that "the fact that [the Beneficiary] is a published illustrator who has publishing companies

[7] Examination of the submitted background information for [redacted] indicates that he also attended the [redacted] College of Design in [redacted] California.

and literary agents vying to work with her . . . . is a clear indication that she is an artist with exceptional standing in the industry." The Petitioner also provided the aforementioned letters from [redacted] and [redacted] praising the Beneficiary's work for [redacted] Studio, [redacted] Design, [redacted] Studios, and [redacted] Studios.

Here, the aforementioned letters primarily discuss the Beneficiary's innate talent and artistry but do not explain in factual terms the Beneficiary's achievements in the field. Further, as previously noted, the Petitioner has provided confirmation that the Beneficiary's artwork [redacted] was selected as a runner-up for the *Creative Quarterly* [redacted] competition in 2019. As discussed above, the Petitioner did not include sufficient supporting explanation or documentation that illustrators whose works are selected as a runner-up for a *Creative Quarterly* award receive recognition within the illustration industry. As such, the record does not demonstrate that such selection constitutes "significant recognition for achievements."

Without further information and evidence, the above-referenced letters are not sufficient to demonstrate that the Beneficiary's achievements have received significant recognition. As previously stated, USCIS may, in its discretion, use as advisory opinions statements submitted as expert testimony. *See Caron*, 19 I&N Dec. at 795. 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.

It remains the Petitioner's burden to show the Beneficiary's significant recognition for achievements in the field. As discussed, the testimonial evidence submitted does not meet this burden. Overall, while the Beneficiary has earned the respect of her colleagues, the material is insufficient to establish that she has received significant recognition for achievements in the field. The Petitioner has, therefore, not established that the Beneficiary satisfies this evidentiary criterion.

> *Evidence that the alien has either commanded a high salary or will command a high salary or other substantial remuneration for services in relation to others in the field, as evidenced by contracts or other reliable evidence.* 8 C.F.R. § 214.2(o)(3)(iv)(B)(*6*).

The Director concluded that the Petitioner satisfied the requirements of this criterion. The Petitioner claims that the Beneficiary's past salary as an illustrator should be considered a "high salary." The Petitioner provided evidence that the Beneficiary received hourly wages of $55.59 for her work on [redacted] and $52.40 for her work on [redacted] She further submitted screenshots from www.bls.gov regarding 2017 Occupational Employment and Wages, reflecting that the 90th percentile of Fine Artists, Including Painter, Sculptors, and Illustrators earned approximately $49.30 per hour. We agree with the Director's determination that this criterion has been met.

III. CONCLUSION

The record does not satisfy, as required, the evidentiary criteria applicable to individuals of extraordinary ability in the arts: a significant national or international award or at least three of six possible forms of documentation. 8 C.F.R. § 214.2(o)(3)(iv)(A)-(B). Consequently, the Petitioner has

not established that the Beneficiary is eligible for the O-1 visa classification as an individual of extraordinary ability in the arts. 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.