U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 43470477

Date: JULY 30, 2026

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

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

The Petitioner, a pole and aerial sport performer and instructor, 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 although the Petitioner established that she satisfied the initial evidentiary requirements, she did not demonstrate her sustained national or international acclaim and that she is among the small percentage at the very top of the field of endeavor. We dismissed the Petitioner's appeal and two combined motions to reopen and reconsider. We subsequently reopened the matter on service motion under 8 C.F.R. § 103.5(a)(5) in response to litigation.[1] Following the Petitioner's response to our service motion, the matter is again before us on appeal pursuant to 8 C.F.R. § 103.3(a)(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,

[1] We issued a notice of service motion pursuant to 8 C.F.R. § 103.5(a)(5)(ii) and provided the Petitioner the opportunity to submit a brief in support of the petition. Her response has been incorporated into the record.

(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

The Petitioner is seeking to be classified as an alien of extraordinary ability in the field of pole and aerial sport. She is a pole and aerial sport performer who plans to work in her field in the United States by continuing to perform in her sport, as well as instructing youth.

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). The Petitioner claims she meets four of the regulatory criteria, namely

- lesser nationally or internationally recognized awards or prizes,
- published materials about the individual in professional publications relating to work in the field,
- participation as a judge of others' work, and
- display of work at artistic showcases or exhibitions.

8 C.F.R. § 204.5(h)(3)(i), (iii), (iv), and (vii).

Initially, USCIS determined that the Petitioner fulfilled three of the claimed criteria but concluded in a final merits determination that she did not establish her sustained national or international acclaim in the field or show that she is one of that small percentage at the very top of that field and denied the petition accordingly. In our previously issued appeal decision, we withdrew USCIS' initial finding that the Petitioner met the criterion for lesser nationally or internationally recognized awards or prizes. In addition, our appeal decision concluded that because the Petitioner had not submitted the required initial evidence of either a one-time achievement or documents that met at least three of the ten criteria, we were not required to provide the type of final merits determination referenced in *Kazarian v. USCIS*, 596 F.3d at 1119–20. Nevertheless, we advised that the record in the aggregate did not support a finding that the Petitioner established the acclaim and recognition required for the classification sought, that the Petitioner has garnered national or international acclaim in the field, and that 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) and 8 C.F.R. § 204.5(h)(2).

Upon de novo review, including the Petitioner's response to our motion, she has not satisfied at least three of the initial evidentiary criteria at 8 C.F.R. § 204.5(h)(3). In addition, she has not demonstrated that she garnered national or international acclaim in her field and that she is one of the small percentage who has risen to the very top of her field of endeavor as required for the classification sought. *See* section 203(b)(1)(A) and 8 C.F.R. § 204.5(h)(2).

A. Evidentiary Criteria

1. "Documentation of the alien's receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor." 8 C.F.R. § 204.5(h)(3)(i).

In the initial decision, USCIS stated that the Petitioner met this criterion. We withdrew USCIS' findings in our appeal decision. Upon de novo review, we conclude that the Petitioner has not met the requirements for this criterion.

To meet this criterion, the Petitioner must demonstrate that she received prizes or awards, and that the prizes or awards are nationally or internationally recognized for excellence in the field of endeavor.

The Petitioner claims she meets the criterion based on her placements at seven pole sport competitions, namely:

- First place in the [redacted] master age group at [redacted] in 2022.
- Second place in the [redacted]4, master age group at [redacted] in 2022.
- First place in the [redacted] master age group at [redacted] in 2022.
- Second place in the [redacted] master/grand master age group at [redacted] in 2022.
- First place in the [redacted] qualifying tournament of the [redacted] Russia in 2013.

- First place in [redacted] at the [redacted] in 2014.
- First place in the [redacted] of the [redacted] in 2014.

The Petitioner, however, did not submit evidence sufficient to show she received three of the claimed placements. She claims to have received first place in the [redacted] master age group at [redacted] While she submitted photographs of the back and front of a medal inscribed with the words, "first place" and the name of the competition, [redacted] 2022," the medal and other evidence in the record do not state or show that the Petitioner was the recipient of the first placement. The Petitioner provided similar evidence for claims that she placed first in the [redacted] master age group at [redacted] and that she placed second in the [redacted] master age group at [redacted] While each medal states the placement and the name of the competition, the medals do not specifically state the Petitioner's name, the award's category, or the age group of the claimed placements.

In addition, while the Petitioner's scorecards from each of the three competitions state the scores she received from the judges, they do not mention or otherwise indicate she received competition placements or prizes or awards based on the scorecards. Multiple photographs depict the Petitioner wearing a medal and pole performing, but they do not establish her receipt of the claimed competition placements. The photographs of the Petitioner wearing the medals have handwritten descriptions about the competitions and the Petitioner's receipt of the medals, but the Petitioner did not provide evidence corroborating her receipt of the competition placements. Unsupported assertions have no evidentiary value and are insufficient to establish a filing party has satisfied their burden of proof. *See Matter of Mariscal-Hernandez*, 28 I&N Dec. 666, 673 (BIA 2022). Without further evidence, the Petitioner has not demonstrated that she received prizes or awards in accordance with the requirements for the regulation.

While the Petitioner provided evidence showing she earned placements at the remaining four competitions, she did not demonstrate that any of the competition placements are nationally or internationally recognized prizes or awards for excellence in her field. The record does not include evidence showing that any of her placements were recognized in the field of pole and aerial sport at the national or international level, beyond the issuing organizations.[2] The Petitioner must show how others beyond the awarding organizations, [redacted] viewed her placement. *See Visinscaia v. Beers*, 4 F. Supp. 3d 126, 136 (D.D.C. 2013) (noting that "[w]ithout 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.").

The plain language of this evidentiary criterion requires that prizes or awards be granted "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

[2] The USCIS Policy Manual states that "an award available only to persons within a single locality, employer, or school may have little national or international recognition." *See generally* 6 *USCIS Policy Manual* F.2(B)(1), https://www.uscis.gov/policy-manual.

the number of awardees or prize recipients, as well as any limitations on competitors. *See generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1). The Petitioner did not provide evidence about her placements which might show that they were given to her for excellence in pole and aerial sport.

For instance, the Petitioner submitted evidence that she earned second place in the [redacted] master age group at [redacted] She provided informational documents from [redacted] which explain participant qualifications, categories of competition, judging qualifications, and scoring.[3] The informational documents explain the five levels of competition with level 1 as "The Beginner" and level 5 as "The Elite Poler/Professional." The Petitioner indicated her placement was in [redacted] which is described in the informational documents as [redacted] The Petitioner has not explained or provided evidence of how her placing second in [redacted] in the [redacted] of the master/grand master age group demonstrates national or international recognition for excellence in her field. She did not show how others beyond [redacted] viewed her placement. *See id.*

Likewise, the Petitioner provided diplomas showing she earned first place in the [redacted] in 2013; first place in [redacted] in 2014; and first place in the [redacted] in 2014. Other evidence about the placements is limited to photocopies of pictures depicting pole performances, her scorecards, and photographs of the medals. While the diplomas indicate the Petitioner earned the placements, the evidence in the record does not establish that any of the placements are nationally or internationally recognized for excellence in the field under the regulation at 8 C.F.R. § 204.5(h)(3)(i).

For the reasons discussed, the Petitioner has not established meeting this criterion. We withdraw USCIS' findings to the contrary.

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

For the reasons discussed below, we agree with USCIS' conclusion that the Petitioner did not meet this criterion.

To meet this criterion, the Petitioner relies on several news articles and a music video published online. The articles, however, are not about the Petitioner and her work in the field of pole and aerial sport. Moreover, the record does not include evidence that any of the articles' publications are a professional or major media trade publication or other major media, as required under the regulation.

[3] We note that the documentation does not relate to the 2022 competition in which the Petitioner participated, but instead the 2023 competition.

For instance, the Petitioner submitted an article titled [redacted] published in *Sartov Native* on [redacted], 2009. While the article mentions the Petitioner, the article is about fitness exercises for strengthening gluteal muscles, not her work in pole and aerial sport. Another article by Alexander Zhuha titled "Five Rings Over Stadium" published in a Russian online newspaper, *www.stadium.ru*, does not mention the Petitioner and is not about her. Instead, the article is about a pole sport and aerial acrobatics competition. While the article titled [redacted] published online at *www.forumdaily.com* quotes the Petitioner once, the article and her quote are not about the Petitioner and her work in her field. Instead, the article is about immigrants making a film and mentions the Petitioner being a choreographer and having "some experience demonstrating feelings through movement and dance."

In the article titled [redacted] published in a school newspaper, *Break at School*, the Petitioner is mentioned for her work as the school's physical education teacher and discusses fitness and sports, not her field of pole and aerial sport. Moreover, the article does not include the author and date of the article. Without an author and date, the article does not meet the regulatory requirement of the criterion. *See Kumar v. Dir. of U.S. Citizenship & Immigr. Servs.*, No. CV RDB-23-2251, 2024 WL 1374794, at *5 (D. Md. Apr. 1, 2024) (upholding plaintiff's evidence did not include the required title, date, or author).

In addition, the Petitioner submitted two articles about [redacted] one article titled [redacted] and the second article titled [redacted] The Petitioner indicates she volunteered as a model for the event and is depicted in both articles' photographs. She claims her work modeling for the fashion week event shows her talents extend beyond pole and aerial sport. The articles, however, are about the fashion event and not about the Petitioner and her work in the field of pole and aerial sport, as required under the regulation.

In addition to the articles, the Petitioner submitted photographs indicating they depict her performing pole and lyra for music videos posted online at *YouTube.com*. The Petitioner provided copies of photographs with handwritten notes about a music video titled [redacted] explaining the video was created by [redacted] published on [redacted] 2023, and had 23,279 online views. The record, however, does not include evidence corroborating the Petitioner's claims that the music video is about the Petitioner and her work in the field. Unsupported assertions have no evidentiary value and are insufficient to establish a filing party has satisfied their burden of proof. *See Matter of Mariscal-Hernandez*, 28 I&N Dec. at 673.

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

3. "Evidence of the alien's participation, either individually or on panel, as a judge of the work of others in the same or an allied field of specification for which classification is sought." 8 C.F.R. § 204.5(h)(3)(iv).

USCIS determined that the Petitioner met this criterion but did not provide an explanation. The Petitioner submitted certificates indicating she was selected to judge multiple events at two pole sport competitions, the 2022 [redacted] judging panel and the 2022 [redacted] judging panel. For each judging panel, she provided a document listing her as one of three judges for multiple pole sport

events and a 2023 [redacted] live event rules document which explains the categories, levels, and age groups for competition events; rules for competition participants; judging procedures and scoresheets; and event element definitions.

Based on the evidence submitted, the Petitioner demonstrated by a preponderance of the evidence that she participated as a judge of the work of others in her field of pole sport, and therefore, meets this criterion.

4. "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).

USCIS determined that the Petitioner met this criterion but did not provide an explanation. Upon de novo review, we conclude that the Petitioner has not met the requirements for this criterion.

This criterion requires evidence that a petitioner's work in the field was displayed, and that display occurred within an artistic exhibition or showcase. *See generally* 6 *USCIS Policy Manual, supra*, at F.2(B)(1). While *Merriam-Webster's* online dictionary definition of "exhibition" includes public showings other than those that are artistic in nature, the plain language of the criterion includes the modifier "artistic" and explicitly requires that the exhibitions or showcases be artistic in nature. *Id.*

To meet this criterion, the Petitioner claims she participated as an artist and athlete for [redacted] at the [redacted] California on [redacted] 2023. To support her claims, she submitted screenshots from [redacted] website, promotional materials, performance photographs, and a document with handwritten notes listing each performance for a 2023 main show. While the screenshots from [redacted] website indicate the Petitioner is one of the several artists for [redacted] the evidence does not include dates of the Petitioner's performances or corroborate her claims that she performed pole and aerial sport at [redacted] 2023.

With her reply to a notice of intent to deny, the Petitioner submitted additional documentation relating to her future work with [redacted] including a letter from the producer and director of [redacted] a contract dated in February 2024 between the Petitioner and [redacted] detailing the Petitioner's work as an artist to perform pole, aerial, acrobatic, gymnastic, dance acts in upcoming performances of [redacted] promotional materials; and screenshots from [redacted] website. The evidence, however, indicates that the Petitioner contracted to work as an artist for [redacted] in 2024, which is after the Petitioner filed this petition in August 2023. Eligibility must be established at the time of filing. 8 C.F.R. §§ 103.2(b)(1), (12); *Matter of Katigbak*, 14 I&N Dec. 45, 49 (Reg'l Comm'r 1971). A petition cannot be approved at a future date after the petitioner becomes eligible under a new set of facts. *Matter of Izummi,* 22 I&N Dec. 169, 175 (Comm'r 1998). That decision, citing *Matter of Bardouille,* 18 I&N Dec. 114 (BIA 1981), further provides that USCIS cannot "consider facts that come into being only subsequent to the filing of a petition." *Id.* at 176. Because the record indicates the Petitioner was to perform as an artist for [redacted] in 2024 after filing this petition, she has not established eligibility for this criterion at the time of filing.

In response to this service motion, the Petitioner submitted additional evidence to meet this criterion, including photographs and a contract relating to her performing in [redacted] 2025.

However, as discussed above, the Petitioner's eligibility must be established at the time of filing, which was in 2023. 8 C.F.R. §§ 103.2(b)(1), (12); *Matter of Katigbak*, 14 I&N Dec. at 49. Therefore, the Petitioner's performance in [redacted] 2025 cannot establish her eligibility for this criterion.

In addition, the Petitioner submitted evidence relating to her work as a performer and model for 2023 [redacted] including photographs and certificates indicating she was a model and performer for the event. The Petitioner, however, did not show that she performed in her field of pole and aerial sport. While the certificate states that the Petitioner was a "performer" for the event, it does not indicate that she was a performer in her field. Moreover, the photographs depict the Petitioner modeling, not displaying her work in her field. Without further evidence, the Petitioner has not corroborated her claims with independent, probative evidence that she performed pole and aerial sport at 2023 [redacted]

Further, the Petitioner claims to meet the criterion based on her performing at a charity and birthday event in [redacted] 2023 and at a [redacted] Russia in [redacted] 2016. The Petitioner, however, did not show that she displayed her work in her field, or that her work was displayed at artistic showcases or exhibitions. The Petitioner submitted photographs with handwritten notes about her performing in her field at the events, but she did not provide independent, probative evidence to corroborate her having performed pole and aerial sport at the events. While a letter from F-M-, a certified public accountant, briefly states that the Petitioner "dazzled the crowd with her performance during a special charity event," F-M- does not provide details of the event and the Petitioner's performance, instead mainly expressing support for the Petitioner immigrating to the United States. Moreover, the Petitioner did not provide evidence about the events in order for us to determine whether they were artistic exhibitions or showcases.

In addition, the Petitioner performing pole and aerial sport at multiple masterclasses does not show that she displayed her work in her field at artistic exhibitions or showcases. Instead, the evidence, including photographs and letters from participants, indicates that the purpose of the masterclasses was for instruction of pole and aerial sport, not for display of work in her field at artistic exhibitions and showcases, as required under the regulation.

For the reasons discussed, the Petitioner has not established meeting this criterion. We withdraw USCIS' findings to the contrary.

B. Final Merits Determination

While we have concluded that the Petitioner has not fulfilled the initial evidentiary requirement of three criteria, and thus need not provide the type of final merits determination referenced in *Kazarian v. USCIS*, 596 F.3d at 1119-20, we will nonetheless consider the issue of the Petitioner's qualification under that standard, as it is the focus of both USCIS' decision and the appeal. We have reviewed the record in the aggregate and agree with USCIS that the Petitioner has not established eligibility as a person of extraordinary ability.

Because extraordinary ability is an elite level of accomplishment whose recognition necessarily entails a judgement call, it cannot be established through meeting at least three of the evidentiary criteria

alone. *See Amin v. Mayorkas*, 24 F.4th at 394-395. Congress sets 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.

In a final merits determination, we analyze an alien's accomplishments and weigh the totality of the evidence to determine if their successes are sufficient to demonstrate extraordinary ability in the field of endeavor. *See* section 203(b)(1)(A)(i) of the Act; 8 C.F.R. § 204.5(h)(2), (3); *see also Kazarian*, 596 F.3d at 1119-20. Here, the Petitioner asserts that she has extraordinary ability in the field of pole and aerial sport, submitting evidence of her experience and achievements in this field. She emphasizes having worked as a pole and aerial performer for [redacted] and as a performer and model for charity and community events. Currently, she volunteers as a coordinator for [redacted] in California and works as a pole and aerial sport instructor for children and adults. She indicates her intent to help grow pole and aerial sport with the goal of pole and aerial sport becoming an Olympic sport.

As mentioned above, the Petitioner judged the work of others in her field. We have also considered evidence related to nationally or internationally recognized awards or prizes; published materials about the Petitioner; and display of her work in the field at artistic exhibitions or showcases. The record, however, does not demonstrate that her achievements are reflective of a "career of acclaimed work in the field" as contemplated by Congress. H.R. Rep. No. 101-723, 59 (Sept. 19, 1990).

As it pertains to her service as a judge of others, an evaluation of the significance of her experience is appropriate to determine if such evidence is indicative of the extraordinary ability required for this highly restrictive classification. *See Kazarian v. USCIS*, 596 F.3d at 1121-22.[4] The Petitioner provided certificates indicating she served as a judge of multiple events at two pole sport competitions, one in 2022 and the other in 2023. However, the Petitioner did not establish that her work as a judge at the two pole sport competitions resulted in or reflects her sustained international or national acclaim in the field, was recognized outside of the competitions, or places her among that small percentage at the very top of her field. *See* 8 C.F.R. §204.5(h)(2).

The Petitioner did not demonstrate that her judging experience contributes to a finding that she has a "career of acclaimed work in the field" as contemplated by Congress or indicative of the required sustained national or international acclaim. *See* H.R. Rep. No. at 59 and section 203(b)(1)(A) of the Act. For instance, she did not establish that she garnered wide attention from the field based on her work as a judge of the pole sport competitions. While reference letters generally mention that the Petitioner has been a judge at competitions, the letters do not provide details about the Petitioner's judging or explain how her judging contributed to a career of acclaimed work. Without evidence that sets the Petitioner apart from others in her field, such as evidence that she has a consistent history of reviewing or judging recognized, acclaimed experts in her field, the Petitioner has not shown that her narrow judging experience places her among that small percentage who has risen to the very top of the field of endeavor. *See Hamal v. United States Dep't of Homeland Sec.*, No. 21-5160, 2023 WL 1156801 at *2 (D.C. Cir. Jan. 31, 2023) (finding the petitioner did not show that he served as a judge

[4] *See generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1) (stating that an individual's participation should be evaluated to determine whether it was indicative of being one of that small percentage who have risen to the very top of the field of endeavor and enjoying sustained national or international acclaim).

of renowned directors as opposed to aspiring artists or the competitions were considered prestigious or attracted significant attention by the field).

Beyond the criterion that the Petitioner satisfied, we consider additional documentation in the record in order to determine whether the totality of the evidence demonstrates eligibility. Here, for the reasons discussed below, we find that the evidence neither fulfills the requirements of any further evidentiary criteria nor contributes to an overall finding that the Petitioner has sustained national or international acclaim and is among the small percentage of the top of her field.

As it relates to awards, the Petitioner provided evidence reflecting her receipt of four pole sport competition placements. Although the competition placements may show some recognition of her work from the field, the Petitioner did not demonstrate how they indicate sustained national or international acclaim or a career of acclaimed work in the field. While the Petitioner submitted letters generally mentioning her receipt of competition placements, the letters and other evidence in the record do not contextualize the significance of the competition placements and how they place her among that small percentage at the very top of the field. *See Hamal v. U.S. Dep't of Homeland Sec.*, No. CV 19-2534 (RC), 2021 WL 2338316, at *4 (D.D.C. June 8, 2021), *aff'd sub nom. Hamal v. United States Dep't of Homeland Sec.*, No. 21-5160, 2023 WL 1156801 (D.C. Cir. Jan. 31, 2023) (upholding plaintiff did not contextualize his awards throughout his career to show sustained national or international acclaim). The Petitioner did not demonstrate how her competition placements translate into national or international acclaim in her field and is indicative of the upper echelon in the field. USCIS has long held that even athletes performing at the major league level do not automatically meet the statutory standards for classification as an individual of "extraordinary ability." *Matter of Price,* 20 I&N Dec. 953, 954 (Assoc. Comm'r 1994).

Regarding published material about the Petitioner, she submitted several articles and photographs related to a music video. However, as discussed above, the articles are not about the Petitioner and her work in the field. Instead, most of the articles discuss other fields, including fitness, fashion events, and immigrants making films. Also, articles mentioning the Petitioner do not discuss her work in her field of pole and aerial sport, but instead indicate her as a choreographer, fitness instructor, and model. The Petitioner has not shown that her nominal press coverage from these articles reflects a career of acclaimed work in her field and is indicative of a level of success consistent with being among that small percentage who has risen to the very top of her field of endeavor, pole and aerial sport. *See Bodhankar v. United States Citizenship & Immigr. Servs.*, No. 119CV706MADCFH, 2020 WL 777211, at *5 (N.D.N.Y. Feb. 18, 2020) (finding the lack of press about the plaintiff was not consistent with national or international acclaim).

In addition to the articles, the Petitioner submitted photographs indicating they depict her performing pole and lyra for music videos posted online at *YouTube.com.* As discussed above, the Petitioner provided copies of photographs with handwritten notes about a music video's creator and online views. The Petitioner, however, has not provided detailed information or evidence about the music video to understand that her being in the music video is reflective of, or has resulted in, widespread acclaim from her field or that she is considered to be at the very top of the field of endeavor. *See* 8 C.F.R. § 204.5(h)(2).

Regarding display of the Petitioner's work in pole and aerial sport at artistic exhibitions and showcases, the Petitioner emphasizes her participation as an artist and athlete for [redacted] demonstrates her sustained national and international acclaim. We acknowledge that reference letters from audience members praise the Petitioner's performances at [redacted] masterclasses, and community and private events. However, the Petitioner has not shown how she sustained acclaim based on her performances in [redacted] and as a model and performer at other community and private events. For instance, she has not shown that her performances brought praise from critics, drew notable crowds, raised attendance, or was responsible for the success of [redacted] or any other events. *See Hamal v. United States Dep't of Homeland Sec.*, No. 21-5160, 2023 WL 1156801, at *2 (upholding the petitioner did not show his plays brought praise from critics, drew notable crowds, raised attendance, or were responsible for the success or standing of the event).

Finally, the record reflects that the Petitioner provided several recommendations and reference letters. However, the letters are not sufficiently persuasive. The letters generally highlight the Petitioner's work and express her being a talented aerial sport performer and instructor who would be an asset instructing pole and aerial sport in the United States. Letters that make general and expansive statements regarding the petitioner and the petitioner's accomplishments are generally not persuasive. *See generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(3). The letters do not claim, nor does the content show, that the Petitioner achieved national or international acclaim from the field. Moreover, the letters do not demonstrate that the Petitioner has attracted a level of attention, placing her at the very top of her field. In addition, the letters do not show that she has enjoyed a career of acclaimed work. *See Jafarov v. United States Citizenship & Immigr. Servs.*, No. 23 CIV. 3372 (PAE), 2024 WL 69056, at *9 (finding testimonial letters were insufficient to establish his relative status in the field and do not compare him to others).

For instance, the Petitioner submitted a letter from P-V-, producer and director of [redacted] who provides background information about [redacted] and indicates that the Petitioner was scheduled to be part of the [redacted] cast in 2024 with plans for her to be contracted in future productions. In addition, P-V- states, "[the Petitioner] is one of the very small percentage who was [sic] risen on the top in pole and aerial field." Repeating the language of the statute or regulations does not satisfy the petitioner's burden of proof. *Fedin Bros. Co., Ltd. v. Sava*, 724 F. Supp. 1103, 1108 (E.D.N.Y. 1989), *aff'd*, 905 F. 2d 41 (2d. Cir. 1990); *Avyr Associates, Inc. v. Meissner*, No. 95 CIV. 10729, *1, *5 (S.D.N.Y. Apr. 18, 1997). Another letter from K-B- states that the Petitioner is an award-winning pole performer and athlete who collaborated with K-B- for five performances of [redacted] Both letters mainly confirm the Petitioner employment with [redacted] rather than specifically detailing her accomplishments, or otherwise showing her sustained national or international acclaim.

The Petitioner emphasizes a letter from F-M-, a certified public accountant, who explains having witnessed the Petitioner "dazzle[] the crowd with her performance" at a community event and expresses support for the Petitioner's future employment and immigration to the United States so that she would "bring her amazing talents and expertise in areal gymnastics and pole sports to the United States and aid in the development of America's future Olympians." Similarly, a letter from M-M-, a fashion designer, described the Petitioner as a "talented performer" having been impressed by her performance at a community event and at [redacted] The Petitioner claims her performance and choreography skills enhanced her modeling work for the [redacted] event. A letter from A-Y-, the CEO of a photo studio and event space, generally praises the Petitioner as a pole sport

performer, judge, and instructor and explains that the Petitioner voluntarily performed and instructed pole exercises at A-Y-'s birthday celebration.

With her first motion, the Petitioner submitted additional letters of support, including a letter from N-R-, the president of [redacted][5] The letter generally states the Petitioner is "one of the top names in pole and aerial sport industries in the [United States] and in Russia" and that she is "one of the leading [p]ole [s]port instructors within the [United States]." Without providing details, the letter states that the Petitioner "has significant accomplishments and awards in her pole athletic career" having "stepped on the podium of the [redacted] that were organized by [redacted] in 2022. The letter confirms the Petitioner's work as a volunteer coordinator of [redacted] who conducts administration tasks related to athletes, coaches, competitions, and showcase management, while conveying general support for the Petitioner's immigration to the United States.

The reference letters generally praise the Petitioner's pole and aerial sport performances and instruction, using broad language about her accomplishments and achievements. The letters confirm her having experience working as a pole and aerial sport performer and instructor, but they are not sufficient to establish that her work as a performer and instructor in the pole and aerial sport field was acclaimed at the national or international level, or even beyond the circle of her colleagues and students, and the audiences of her performances.

The same is true of the opinion letter from Dr. B-H-, a professor in the Department Health and Human Performance at the [redacted] The letter indicates that Dr. B-H- has "extensive experience and expertise in the fields of aerial pole sport and aerial acrobatics," positioning him "to evaluate and assess [the Petitioner's] accomplishments and accolades" and "recogniz[e] her extraordinary abilities in the specialized domain of aerial acrobatics, particularly within the aerial pole sport arena." The letter, however, does not explain Dr. B-H-'s experience and expertise in aerial pole sport and aerial acrobatics, instead provides a general explanation of his academic achievements and professional experience teaching and researching sports studies, including college athletics.

Moreover, the letter indicates that "[the Petitioner's] exceptional accomplishments and accolades in the field of aerial pole sport" have been the focus of the published articles and an online music video, and "underscores her status as an individual with extraordinary abilities and both national international recognition." However, we do not agree with Dr. B-H- that the article titled "Five Rings Over Stadium" published in the Russian online newspaper, *www.stadium.ru*, is about the Petitioner and her work in the pole and aerial sport field. As noted above, the article does not mention the Petitioner. Moreover, while Dr. B-H- indicates that the published articles and music video highlight the

[5] Also included with the first motion is a letter from the CEO of [redacted] While the letter makes general statements about the Petitioner being "a distinguished athlete" and "renowned as one of the top experts in the field and pole and aerial sports communities," the letter mainly relates to the Petitioner's contributions to the [redacted] hosted by [redacted] 2023. However, as discussed above, the Petitioner's eligibility must be established at the time of filing, which was in August 2023. 8 C.F.R. §§ 103.2(b)(1), (12); *Matter of Katigbak*, 14 I&N Dec. at 49. Therefore, her contributions to the [redacted] 2023 cannot establish her eligibility for this benefit.

Petitioner's work in her field, Dr. B-H- points out that the materials highlight the Petitioner's expertise as a fitness instructor, model, dancer, and actress.

USCIS may, in its discretion, use advisory opinion 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 an alien's eligibility for the benefit sought. *Id.* The submission of letters of support from the Petitioner's personal contacts is not presumptive evidence of eligibility; USCIS may evaluate the content of those letters as to whether they support the alien's eligibility. *See id.* at 795-796; *see also Matter of V-K-*, 24 I&N Dec. 500, 500 n.2 (BIA 2008). Thus, the content of the writers' statements and how they became aware of the Petitioner's reputation are important considerations. Even when written by independent experts, letters solicited by an alien in support of an immigration petition are of less weight than preexisting, independent evidence.

As stated above, the Act requires "extensive documentation" to show recognition of an alien's achievements in the field. Here, the letters do not contain sufficient information and explanation to show that the Petitioner is viewed by the overall field, rather than by a solicited few, among the upper echelon or that she has garnered recognition on a national or international scale, consistent with being among the small percentage at the very top of her field of endeavor. *Mishra v. Richardson*, No. 120CV991LMBTCB, 2021 WL 1566071, at *3 (E.D. Va. Apr. 20, 2021) (finding that none of the plaintiff's letters point to evidence of extensive documentation of his accomplishments to show sustained national or international acclaim). While we have given the reference letters due consideration, such letters should not form the cornerstone of a successful claim under this immigrant visa classification and should be corroborated by documentary evidence to verify a petitioner's accomplishments and put them in a broader context. *See generally* 6 *USCIS Policy Manual* F.2(B)(3). Although the letters highlight the Petitioner's work as a performer and instructor in her field, they do not reflect a career of acclaimed work in the field, garnering the required sustained national or international acclaim. *See Bodhankar v. United States Citizenship & Immigr. Servs.*, No. 119CV706MADCFH, 2020 WL 777211, at *5 (finding the submitted letters failed to establish the plaintiff's contributions resulted in significant acclaim).

The record as a whole, including the evidence discussed above, does not establish the Petitioner's eligibility for the benefit sought. 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. at 954; *Visinscaia v. Beers*, 4 F. Supp. 3d at131 (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, *aff'd*, 2023 WL 1156801 (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.

III. CONCLUSION

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 stated 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.