U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37385437

Date: MAR. 25, 2025

Appeal of Texas Service Center Decision

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

The Petitioner, a marketing and communications specialist, requests classification under the employment-based, first-preference (EB-1) immigrant visa category as an alien with "exceptional ability." *See* Immigration and Nationality Act (the Act) section 203(b)(1)(A), 8 U.S.C. § 1153(b)(1)(A). Successful petitioners for U.S. permanent residence in this category must demonstrate "sustained national or international acclaim" and extensively document recognition of their achievements in their fields. Section 203(b)(1)(A)(i) of the Act.

The Director of the Texas Service Center denied the petition. The Director concluded that the Petitioner did not meet any of the requested category's ten evidentiary requirements – three less than need for a final merits determination. On appeal, the Petitioner contends that the Director mischaracterized her specific field and misapplied law and policy.

The Petitioner bears the burden of demonstrating eligibility for the requested benefit by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). Exercising de novo appellate review, *see Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015), we conclude that, although the Director mischaracterized the Petitioner's specific field, she has not met the minimum amount of evidentiary criteria. We will therefore dismiss the appeal.

I. LAW

To qualify for this immigrant visa category, a petitioner must demonstrate that they:

- Have "extraordinary ability in the sciences, arts, education, business, or athletics;"
- Seek to continue work in their field of expertise in the United States; and
- Would substantially benefit the country.

Section 203(b)(1)(A)(i)-(iii) of the Act.

The term "extraordinary ability" means expertise commensurate with "one of that small percentage who have risen to the very top of the field of endeavor." 8 C.F.R. § 204.5(h)(2). Unless a petitioner

received "a major, international recognized award," they must satisfy at least three of ten lesser evidentiary criteria. 8 C.F.R. § 204.5(h)(3).[1]

If a petitioner meets either evidentiary standard and the requirements at section 203(b)(1)(A)(ii), (iii) of the Act, USCIS must make a final merits determination. To merit approval, the record – as a whole – must establish a petitioner's "sustained national or international acclaim" and recognized achievements placing them among the small percentage at their field's very top. *See Amin v. Mayorkas*, 24 F.4th 383, 391 (5th Cir. 2022) (finding USCIS' two-step extraordinary ability analysis "consistent with the governing statute and regulation"); *see generally* 6 *USCIS Policy Manual* F.2(B), www.uscis.gov/policy-manual.

II. ANALYSIS

A. The Petitioner

The record shows that the Petitioner, a Venezuelan native and citizen, earned a bachelor's degree in social communication at a university in her home country. She worked in a variety of jobs in Venezuela, including as a media and communications manager at a business union and as a media director at a communications company.

In the United States, the Petitioner served as a producer and public relations (PR) professional at a U.S. radio station. Since 2018, she has worked for a U.S. entertainment company as "Producer, Advertising, PR & Artist Relations," managing world tours, producing shows, and overseeing content creation.

B. The Petitioner's Specific Field

The Petitioner and the Director agree that the Petitioner works in the broad field of "business." But the Petitioner contends that the Director did not recognize her specific field: "entertainment production, advertising, and public relations."

The Petitioner's initial letter identifies her field as "business, most specifically within the field of entertainment production, advertising, and public relations." But the document also describes her as "a highly accomplished and influential figure in the field of social communication and journalism."

The Director's request for additional evidence (RFE) identified the Petitioner's field as "social communication and journalism." The Petitioner's RFE response sought to "clarify" her field but ultimately accepted the Director's characterization. The response stated: "Please note that while the Petitioner anticipates that she will work in the field of social communication and journalism, her specific role will be that of 'Senior Marketing and Communications Specialist.'" She stated that the job falls under the occupational classification of "Advertising and Promotion Managers." *See* U.S. Bureau of Lab. Stat., "Occupational Employment and Wages," www.bls.gov/oes/2023/may/oes112011.htm (discussing Standard Occupational Classification (SOC) 11-2011). The Petitioner said

[1] If an evidentiary criterion does not "readily apply" to a beneficiary's occupation, a petitioner may submit "comparable evidence" to establish eligibility. 8 C.F.R. § 204.5(h)(4).

that her job is "within the broader scope of journalism and communication due to its reliance on strategic content creation and media management." She added: "[B]y no means is [this] to be construed as a substantial change of the Petitioner's occupation o[r] future role she will undertake in the U.S."

The Director's notice of intent to deny [NOID] the petition alleged that "the petitioner changed her field of endeavor." *See Matter of Izummi*, 22 I&N Dec. 169, 175 (Assoc. Comm'r 1998) ("[A] petitioner may not make material changes to a petition that has already been filed in an effort to make an apparently deficient petition conform to Service requirements.") The NOID compared the initial letter's description of the Petitioner as working "in the field of social communication and journalism" with her RFE response stating her proposed employment as a senior marketing and communications specialist. The NOID stated: "These are two different fields because the initial statement shows [the] field of arts, and the new one shows the field of business."

The Petitioner's NOID response denied that her field had changed and stated that she intended her explanation in the RFE response to "ensure[] that my role is properly understood within the broader scope of journalism and communication as a business."

As the Petitioner argues, a preponderance of the evidence identifies her specific business field as "entertainment production, advertising, and public relations." We will address disagreements over her field as they arise.

C. The Evidentiary Criteria

The record does not indicate – nor does the Petitioner claim – her receipt of a major internationally recognized award. She must therefore meet at least three of the ten evidentiary criteria at 8 C.F.R. § 204.5(h)(3)(i-x).

The Petitioner claims that the Director erred in finding no evidence of her:

- Receipt of lesser nationally or internationally recognized awards for excellence in her field;
- Membership in associations in the field requiring outstanding achievements of their members;
- Appearance in published material about herself and her work;
- Participation as a judge of others' work in the field;
- Performance in a leading or critical role for organizations with distinguished reputations; or
- Commandment of a high salary or significantly high remuneration for her services.

See 8 C.F.R. § 204.5(h)(3)(i), (ii), (iii), (iv), (viii), (ix).[2] To satisfy these evidentiary requirements, the Petitioner's evidence must objectively meet the parameters of the applicable regulatory descriptions. *See generally* 6 *USCIS Policy Manual* F.2(B).

[2] The Director also found that the Petitioner did not submit evidence of commercial successes in the performing arts. *See* 8 C.F.R. § 204.5(h)(3)(x). On appeal, the Petitioner does not challenge that finding. She has therefore effectively "waived" review of that evidentiary criterion. *See Matter of O-R-E-*, 28 I&N Dec. 330, 336 n.5 (BIA 2021) (citing *Matter of R-A-M-*, 25 I&N Dec. 657, 658 n.2 (BIA 2012)).

1. Lesser Nationally or Internationally Recognized Awards

This criterion requires "[d]ocumentation 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). When adjudicating this requirement, USCIS first determines whether a petitioner – as opposed to their employer, for example – received prizes or awards. *See generally* 6 *USCIS Policy Manual* F.2(B)(1), Criterion 1. If so, the Agency then determines whether the awards honored excellence in the applicable field and garnered national or international recognition. *Id.*

The Petitioner submitted evidence of various awards she won, including two 2020 awards: [redacted]

The Director found that the Petitioner's evidence did not demonstrate that her awards honored her work in the "business" field or had national or international recognition. On appeal, the Petitioner argues that both awards recognized her excellence in performing the business functions of production, advertising, and public relations in the entertainment industry.

[redacted] indicates its category as "[redacted]." A letter from the foundation that issued the award states the prize's creation "to recognize, promote, encourage and praise the excellent talent and work of men and women in the music, entertainment and news industries, including promotion, production, technical support, photography, musicians, event organizers, promoters, models, [and] performers during the current year." Contrary to the Director's finding, a preponderance of the evidence indicates the award's issuance to honor the Petitioner's work in the field of business, specifically her work as an "event producer" or organizer.

[redacted] states its category as [redacted]." A letter from the foundation that issued this award states that it honors people working in the areas "of entertainment, show business, entrepreneurship, companies, public figures and people who with their talent are examples to follow." The award's category indicate that this award also honor's the Petitioner for her work in the field of business, specifically entertainment production.

The Petitioner asserts that the [redacted] awards are "well-known across Latin American and the United States" and have "broad geographic scope," with recipients from multiple countries "confirming [the awards'] international recognition." But recipients' diverse nationalities alone do not demonstrate awards' international recognition. Rather, the Petitioner must demonstrate how a larger audience regards the awards. The record lacks evidence that Venezuelans or populations outside the country know of these awards. Documentation from the foundations that issued them describe one as "coveted" and the other as "one of the most important awards given in Venezuela at the international level." But evidence from the awards' issuers is not independent and reliable enough to demonstrate the awards' national or international recognition. *See Krasniqi v. Dibbins*, 558 F.Supp.3d 168, 182 (D.N.J. 2021) (quoting *Visinscaia v. Beers*, 4 F.Supp.3d 126, 136 (D.D.C. 2013)) ("[E]vidence solely from the awarding organization itself may be insufficient if it does not show 'how a larger audience viewed [the] awards.'")

The Petitioner submitted documentation of her receipt of awards for excellence in her specific business field. But, contrary to 8 C.F.R. § 204.5(h)(3)(i), the evidence does not demonstrate that the awards have national or international recognition. We will therefore affirm the Director's finding regarding this evidentiary requirement.

2. Membership in Associations

To meet this criterion, a petitioner must submit "[d]ocumentation of the alien's membership in associations in the field for which classification is sought, which require outstanding achievements of their members, as judged by recognized national or international experts in their disciplines or fields." 8 C.F.R. § 204.5(h)(3)(ii).

The Petitioner submitted documentation of her memberships in two Venezuelan journalist associations. The Director found that journalism "is not business as [she] claims on the petition." The Petitioner argues that her memberships in the journalist associations relate to her work in the entertainment industry because both activities involve "public relations and media management."

Contrary to the Director's decision, we find that journalism is a business and that the Petitioner's memberships in journalist associations sufficiently relate to her public relations and media work in the entertainment industry.

The Petitioner, however, has not demonstrated that the journalist associations require outstanding achievements of their members or judging of members by recognized national or international experts. A letter from the president of one association states that it accepted the Petitioner as a member in recognition of her achievements over more than 30 years in the field. But the letter does not describe her achievements as outstanding or specify that membership in the association requires outstanding achievements. *See, e.g., Braga v. Poulos*, No. CV 06-5105, 2007 WL 9229758, *5 (C.D. Cal. July 6, 2007), *aff'd*, 317 Fed. Appx. 680 (9th Cir. 2009) (holding that a petitioner's membership in multiple Jiu-Jitsu organizations did not satisfy this criterion because he provided no evidence that any of the organizations required outstanding achievements of their members). The letter also does not indicate that national or international experts judge the association's members. Counsel asserts that "these associations require outstanding achievements of their members and membership is judged by recognized experts in the field." But counsel's assertions do not constitute evidence. *See, e.g., Matter of S-M-*, 22 I&N Dec. 49, 51 (BIA 1998) ("[S]tatements in a brief, motion, or Notice of Appeal are not evidence and thus are not entitled to any evidentiary weight.")

The Petitioner has membership in associations in her field. But she has not demonstrated that the associations require outstanding achievements of their members, as judged by recognized national or international experts in their fields. We will therefore affirm the Director's adverse finding regarding this evidentiary requirement.

3. Published Material About the Petitioner

This criterion 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."

8 C.F.R. § 204.5(h)(3)(iii). Evidence must include "the title, date, and author of the material, and any necessary translation." *Id.*

When adjudicating this requirement, USCIS first determines whether the published material relates to a petitioner and their specific work in their field. *See generally* 6 *USCIS Policy Manual* F.2(B)(1), Criterion 3. The Agency will accept published material covering a broader topic if the material includes "a substantial discussion of the person's work in the field and mentions the person in connection to the work." *Id.*

USCIS next determines whether a publication qualifies as a professional publication, major trade publication, or major media publication. *See generally* 6 *USCIS Policy Manual* F.2(B)(1), Criterion 3. Relevant factors include, for professional and major trade publications, the intended audience and, for major trade publications and other major media, a publication's relative circulation, readership, or viewership. *Id.*

The Petitioner submitted copies of several published articles. The Director found that the articles did not discuss the Petitioner's work, "rather just mentioned [her]." The Director also found that the articles identified her work as journalism, "which is not in the field of endeavor." The Director further found that some articles lack their authors' names. The Petitioner contends that "multiple articles highlight her role as a producer" of successful shows, focusing on her business organizational skills, strategic communications, and media management.

As the Petitioner argues, some of the articles substantially discuss her work in her field, including her creation and production of stage shows and COVID-19 awareness campaigns on television and digital platforms. Also, as previously discussed, we find journalism to constitute a business and to closely relate to the skills the Petitioner uses in her work. Thus, contrary to the Director's decision, we find that she submitted published materials relating to her work in her specific business field.

The Petitioner, however, has not demonstrated that any of the publications in which the articles appeared constitute professional or major trade publications, or other major media. The record lacks sufficient evidence regarding the publications' relative circulations or their intended audiences. Several articles in the same digital publication identify it as "the largest digital newscast in America." But the record lacks independent evidence supporting the claim. *See Mussarova v. Garland*, 562 F.Supp.3d 837, 847 (C.D. Cal. 2022) (finding online articles insufficient to meet this criterion where the petitioner omitted evidence that they appeared in professional or major trade publications or other major media).

The Petitioner has not established that the published material about her and her work appeared in professional or major trade publications, or other major media. We will therefore affirm the Director's adverse finding regarding this evidentiary requirement.

4. Performance in a Leading or Critical Role

To meet this requirement, a petitioner must submit "[e]vidence that the alien has performed in a leading or critical role for organizations or establishments that have a distinguished reputation." 8 C.F.R. § 204.5(h)(3)(viii).

USCIS first determines whether a petitioner has performed in a leading or critical role for an organization, establishment, or a division or department of an organization or establishment. *See generally* 6 *USCIS Policy Manual* F.2(B)(1), Criterion 8. A leading role means that a petitioner is (or was) a leader within the organization, establishment, division, or department. *Id.* In contrast, a critical role means that a petitioner "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." *Id.*

USCIS next determines whether the organization, establishment, department, or division for which a petitioner holds or held a leading or critical role has a distinguished reputation. *See generally* 6 *USCIS Policy Manual* F.2(B)(1), Criterion 8. The word "distinguished" means "marked by eminence, distinction, or excellence" or "befitting an eminent person." *Merriam-Webster Online Dictionary*, www.merriam-webster.com. Relevant factors include not only an organization's relative size and longevity but also other information such as the scale of its customer base or relevant media coverage. *Id.*

The Petitioner submitted letters from former and current employers and U.S. business sponsors of a show she produced. The Director found the letters insufficient to meet the evidentiary criterion. The Director concluded that the letters did not establish the Petitioner's performance in leading or critical roles.

We agree that letters from two of the Petitioner's former Venezuelan employers and the U.S. business sponsors lack enough information to determine whether her roles in those organizations were leading or critical. *See* 6 *USCIS Policy Manual* F.2(B)(1), Criterion 8 (requiring supporting letters to "contain detailed and probative information that specifically addresses how the person's role for the organization, establishment, division, or department was leading or critical"). But the letter from her current employer, combined with other evidence of record, demonstrates the Petitioner's critical role for the entertainment company. The record shows that she organizes and manages large events, secures sponsorships for shows, and negotiates contracts. These duties are critical to the entertainment company's profitability and success. We therefore find that the Petitioner has submitted evidence of her performance in a critical role.

As the Director found, however, the Petitioner has not demonstrated that her current employer (or her former employers and U.S. business sponsors) have distinguished reputations. The employers and sponsors describe themselves as leading businesses. But the record lacks sufficient independent objective evidence to support their claims. *See Branski v. Seng*, No. 24-CV-360, 2024 WL 4678939, *8 (E.D. Wis. Nov. 4, 2024) ("Successful businesses can be expected to have satisfied customers and the positive esteem of peers. But it takes more to have a 'distinguished reputation.'")

The Petitioner's evidence demonstrates her performance in a critical role for her current employer. But the documentation does not demonstrate that the employer has a distinguished reputation. We will therefore affirm the Director's adverse finding regarding this evidentiary criteria.

5. The Remaining Criteria

The Petitioner has not met four of the six evidentiary criteria she claims to have satisfied. She therefore cannot meet the minimum amount of three evidentiary requirements. Thus, we need not reach and hereby reserve consideration of her arguments regarding her claimed participation as a judge of others' work in her field or her purported commandment of a high salary or significantly high remuneration in relation to others in the field. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (per curiam) (holding that agencies need not make "purely advisory findings" on issues unnecessary to their ultimate decisions).

III. CONCLUSION

The Petitioner has not met the minimum amount of evidentiary requirements for the requested immigrant visa category. We will therefore affirm the petition's denial.

ORDER: The appeal is dismissed.