U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 16914349

Date: MAY 11, 2021

Appeal of California Service Center Decision

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

The Petitioner, an art museum, seeks to classify the Beneficiary, an associate curator of [redacted] art, 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).

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)(3)(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 petitioning an art museum seeks to employ the Beneficiary in the role of assistant curator for its [redacted] art collection for a period of three years. According to his curriculum vitae, the Beneficiary received his Doctor of Fine Arts at the State University [redacted] in 2016. At the time of filing the instant petition in July 2020, the Beneficiary was employed in [redacted] as curator at [redacted] and as a professor of visual arts at [redacted] The record also indicates that the Beneficiary served as a resident curator at [redacted] School of Art in 2016, and at the Institute of Contemporary Arts [redacted] in 2020. The Petitioner asserts the Beneficiary is a curator of extraordinary ability in the field of [redacted] art.

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, it must satisfy at least three of the alternate regulatory criteria at 8 C.F.R. § 214.2(o)(3)(iv)(B)(*1*)-(*6*). In denying the petition, the Director determined that the Petitioner met one of the alternative regulatory criteria, lead, starring, or critical role for distinguished organizations under 8 C.F.R. § 214.2(o)(3)(iv)(B)(*3*). We do not agree with the Director's finding relating to that criterion, discussed later.

On appeal, the Petitioner maintains that the Beneficiary meets four additional criteria, relating to lead or starring participant in distinguished productions or events under 8 C.F.R. § 214.2(o)(3)(iv)(B)(*1*), national or international recognition for achievements evidenced by published materials under 8 C.F.R. § 214.2(o)(3)(iv)(B)(2); major commercial or critically acclaimed success under 8 C.F.R. § 214.2(o)(3)(iv)(B)(*4*); and, significant recognition for achievements under 8 C.F.R. § 214.2(o)(3)(iv)(B)(*5*). Alternately, the Petitioner asserts for the first time on appeal that "[s]hould more regulatory certainty be needed to reach the level for granting the extraordinary ability nonimmigrant approval sought, applying the 'comparable evidence' category ... makes [the Beneficiary's] body of work meet and reasonably surpass the threshold of preponderance." As

[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."

discussed below, we find that the exhibits do not satisfy any of the evidentiary categories described at 8 C.F.R. § 214.2(o)(3)(iv)(B)-(C).

> *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 Petitioner asserts that the Beneficiary satisfies this criterion based upon his past work as a curator and co-curator of solo and group art exhibitions and projects of contemporary [redacted] art, and his proposed work with the Petitioner. The Beneficiary's past work includes the following:

- [redacted] (group exhibition) at Centro Cultural [redacted] (2019)
- [redacted] (group exhibition) at Institute of Contemporary Arts [redacted] (2019)
- [redacted] (solo show by [redacted]) at [redacted] (2019)
- [redacted] (solo show by [redacted]) at [redacted] (2019)
- [redacted] (solo show by [redacted]) at [redacted] (2018)
- [redacted] (solo show by [redacted]) at [redacted] (2018)
- [redacted] (group show) at [redacted] Art Foundation, [redacted] (2018)
- [redacted] (solo show by [redacted]) at [redacted] (2018)
- [redacted] (solo show by [redacted]) at [redacted] (2018)
- [redacted] (solo show by [redacted]) at [redacted] (2017)
- [redacted] (group show) at Centro Cultural [redacted] (2017)
- [redacted] (group show) at [redacted] Gallery, [redacted] (2016)
- [redacted] (solo show by [redacted]), at [redacted] Library, [redacted] (2016)
- [redacted] (group show, 1st Clay Biennial [redacted]) at [redacted] (2014)

The Petitioner provided published materials pertaining to the exhibitions, including testimonial letters, promotional e-flyers, leaflets, exhibition photographs, screenshots of materials from venue websites, and screenshots of materials from other promotional websites such as INFOART.sp and [redacted] As explained below, we agree with the Director that the evidence submitted does not satisfy this criterion.

Some of the submitted testimonial letters contain information that is relevant to this criterion. For example, [redacted] Chief Curator at [redacted] since 2017, states that he and the Beneficiary, a member of the museum's curatorial team, "have organized more than 20 shows." He highlights the exhibition [redacted] and the exhibition's catalogue which he and the Beneficiary edited in partnership with the [redacted] Art Museum, as an example of "the Beneficiary's ability to work with different persons and to engage professionals in a single project." [redacted], an art history professor with whom the Beneficiary studied during an academic exchange program as a doctoral student, praises [redacted] as "one of the most powerful and moving exhibitions I

have visited in my whole life." [redacted] a curator at the National Gallery [redacted] describes [redacted] *as* "highly innovative, thoughtful, and powerful, easily one of the more interesting exhibitions I have seen during my time living in [redacted]." While those letters and others suggest that the Beneficiary was a main curator for some shows, consistent with a lead or starring level of participation, they do not clarify how the Beneficiary, as a curator of exhibitions at [redacted] and elsewhere, has performed in a lead or starring capacity for an event with a distinguished reputation. Further, the regulation requires evidence in the form of critical reviews, advertisements, publicity releases, publications, contracts, or endorsements. We consider the letters below in our discussion of the criterion at 8 C.F.R. § 214.2(o)(3)(iv)(B)(*5*).

Additional documentation submitted under this criterion includes translations of foreign language articles and interviews with the Beneficiary. We note that the regulation at 8 C.F.R. § 103.2(b)(3) states: "Any document containing foreign language submitted to USCIS shall be accompanied by a full English language translation which the translator has certified as complete and accurate, and by the translator's certification that he or she is competent to translate from the foreign language into English." Here, the Petitioner submitted translations that do not comport with the regulation. Instead the translations are accompanied by blanket certifications for "Published Reviews" or "Published Interviews" that do not identify any specific document being translated. Because these translations do not comply with 8 C.F.R. § 103.2(b)(3), they have significantly diminished probative value.

Among the published materials is a portion of an article that the Petitioner indicates is from the website www.oglobo.globo.com titled [redacted] that briefly describes the works in [redacted] and states that it '[redacted] [the Beneficiary.]" A part of an additional article from www.oglobo.globo.com titled '[redacted] mentions that the Beneficiary was the assistant curator to [redacted] for [redacted] A portion of a review from the website [redacted] states that [redacted] "addresses the [redacted] under multiple perspectives in the [Centro Cultural [redacted]]. A part of a review that the Petitioner indicates is from the website www.arthop.co titled '[redacted] at the Institute of Contemporary Arts [redacted]' indicates the Beneficiary is a guest curator and describes the exhibit as "[the Beneficiary's] project as part of his ongoing research as a curator, critic and art historian that explores the impact that plural histories had on contemporary art." A portion of a review from the website The Brooklyn Rail for [redacted] in which the Beneficiary is not mentioned, indicates the exhibition "brings together new video and installation works by twenty-six artists from Latin America, Southeast Asia and Hong Kong and Macau." A portion of a review of [redacted] from the website Corridor8 indicates the Beneficiary co-curated the exhibition with [redacted] and developed it from his doctoral studies at [redacted] University.

In addition, among the interviews is a portion of an interview with the Beneficiary from the Dutch website Jegens & Tevens in which he discusses his role as a curator but does not mention any specific production or event. Other interview portions from the websites SP-Arte.com and [redacted] discuss subjects raised by the exhibitions [redacted] and [redacted] The above articles and interviews, however, do not establish the distinguished reputation of the exhibitions curated by the Beneficiary. Rather, like the aforementioned promotional e-flyers, leaflets, photographs, and screenshots of materials from venue websites, they reflect that the exhibitions have recently occurred, recently opened, or will soon open.

Further, the Petitioner did not document the reach of the aforementioned media such that a promotion on their websites is indicative of the distinguished reputation of the event.

Finally, the Petitioner must establish that the Beneficiary "will perform" services as a lead or starring participant in productions or events with a distinguished reputation. The Petitioner has not offered additional evidence that would distinguish the Beneficiary's proposed role as leading or starring within the company's upcoming productions. It indicates in the job offer that the Beneficiary will work as an "Associate Curator of [redacted] Art within the Curatorial department," and it provides in the petition that as such associate curator he will be "[r]esponsible for the acquisition, study, care, display, interpretation, record keeping and publication of the museum's modern and contemporary [redacted] art collection in coordination with the department head; serving as in-house subject expert and sharing information in multiple formats with a variety of audiences." Within its initial submission, the Petitioner provided an additional letter from its director, [redacted] which lists the responsibilities associated with the Beneficiary's position at the museum and discusses the Petitioner's business intentions, but it does not identify specific productions or events in which the Beneficiary will participate or offer evidence that would denote his role as leading or starring within those upcoming events, and demonstrate their distinguished reputation. In sum, the Petitioner has neither identified nor documented, through submission of the evidence prescribed by regulation, the Beneficiary's previous or forthcoming lead or starring role in events with a distinguished reputation.

In light of the above, the Petitioner has not established that the Beneficiary satisfies the requirements of this evidentiary 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 by or about the Beneficiary in major newspapers, trade journals, magazines, or other major media. [2]

While the previously discussed articles from the websites www.oglobo.globo.com, [redacted] www.arthop.co, The Brooklyn Rail, and Corridor8 and the aforementioned interviews from SP-Arte.com and [redacted] confirm that the Beneficiary curated those showcases, they are not critical reviews or other journalistic coverage recognizing his achievements in the field.

In addition, the Petitioner provided the aforementioned portion of an interview with the Beneficiary from the Dutch website Jegens & Tevens that appears to be about him, in which he discusses his role as a curator. Further, the Petitioner submitted several articles written by the Beneficiary between 2009 and 2019 as an art critic and art historian, including reviews of contemporary artists, art exhibitions, art

[2] Several of the articles by and about the Beneficiary include translations that are accompanied by blanket certifications and, therefore, do not comply with the regulation at 8 C.F.R. § 103.2(b)(3), as previously discussed. Thus, they have significantly diminished probative value.

books, and topics in art history, published in websites such as Folha De [redacted], Artelogie, Performatus, Contemporartes, and [redacted] in print magazines including *ArtNexus, Revista of* [redacted], *Cartema*, on the Beneficiary's blog [redacted], and in exhibition catalogues. The Director's request for evidence (RFE) requested evidence of the print circulation and internet readership of the publications in which the Beneficiary's interview and articles appeared. Within its response to the RFE, the Petitioner asserted that *Art Nexus* "has a circulation of 29,000 copies per issue," and the print version of *Folha* [redacted] has "a circulation of more than 330,000 daily copies." The Petitioner includes no corroborative evidence to demonstrate the level of print circulation and internet readership of any of the publications relative to other print or online media to demonstrate that these publications can be considered "major" media. Further, the Petitioner has not explained how the interview with the Beneficiary or the articles written by him rise to the level of "national or international recognition for achievements" in the field.

Based on 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*).

The Director's decision stated that the Beneficiary met this criterion without explaining her determination or indicating what evidence she found to establish the Beneficiary's performance in a lead, starring, or critical roles for distinguished organizations or establishments. For the reasons outlined below, the record does not reflect that the Petitioner submitted documentary evidence sufficient to demonstrate that the Beneficiary meets this criterion, and the Director's determination on this issue will be withdrawn.

The documentation submitted shows that since 2017 the Beneficiary has performed as part of the curatorial team of [redacted] under [redacted] the chief curator. The scope of this evidentiary criterion focuses on the relative importance of the Beneficiary's role for distinguished organizations. A lead or starring role should be apparent by its position in the overall organizational hierarchy and should be accompanied by the role's matching duties. A critical role should be apparent from a beneficiary's impact on the organization or the establishment's activities. The aforementioned letter from [redacted] does not detail how the Beneficiary was responsible for the success or standing of [redacted] to a degree consistent with the meaning of a "critical role." For example, his letter does not distinguish the Beneficiary's position from those of the museum's other curators, to establish how his position fit within the overall hierarchy of the organization, or detail the manner in which his work has resulted in a measurable level of success for the museum. Based on the above, the evidence submitted does not establish that the Beneficiary's past role for that establishment was in a lead, starring or critical capacity.

The Petitioner must also establish that the Beneficiary will prospectively provide services in a lead, starring, or critical role for organizations or establishments that have a distinguished reputation. As previously stated, the petition and job offer indicate that the Beneficiary will work for the petitioning museum as "Associate Curator of [redacted] Art within the Curatorial department." Within its

initial submission, the Petitioner provided the aforementioned letter from [redacted] who states that the Beneficiary's role as an associate curator of [redacted] Art is an essential member of the Petitioner's team "enhancing the museum's relationship with the public through the institution's core values of excellence, engagement, commitment to the community, and global vision." Within its response to the Director's RFE, the Petitioner provided a further letter from [redacted] indicating that his previous letter "lists the 22 position duties planned for [the Beneficiary]." Here, while letters from [redacted] describe how the Beneficiary's work will be consistent with that job title, his letter does not establish how the Beneficiary will perform in a lead or critical role for the petitioning organization. We may, in our discretion, use as advisory opinion statements offered as expert testimony. *See Matter of Caron Int'l*, 19 I&N Dec. 791, 795 (Comm'r 1988). However, we are ultimately responsible for making the final determination regarding a beneficiary's eligibility for the benefit sought. *Id.* The submission of letters of support from the Beneficiary's personal contacts is not presumptive evidence of eligibility; we may evaluate the content of those letters as to whether they support the foreign national's eligibility. *Id.* at 795-796. The submitted evidence does not describe how the Beneficiary will contribute to the petitioning organization as a whole, or how his position fits within the overall hierarchy of the company. The letters from [redacted] do not explain how, in his proposed role the Beneficiary will perform in a lead role or be responsible for the Petitioner's success or standing to a degree consistent with the meaning of a "critical role," when compared, for example, to other associate curators or the department head.

For the reasons discussed above, the Petitioner did not establish that the Beneficiary has performed, and will perform, in a lead, starring, or critical role for organizations and establishments that have a distinguished reputation consistent with this regulatory criterion. Accordingly, we withdraw the decision of the Director for this 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. The Director determined the Petitioner does not satisfy this criterion, and the record supports that conclusion. The Petitioner has submitted an extensive catalog edited by the Beneficiary for the exhibition [redacted] The documentation submitted does 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 field. 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 his achievement was acknowledged in the industry at-large.

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*).

The Director determined that the evidence did not satisfy this criterion. In support of this criterion the Petitioner submitted various testimonial letters from art curators and historians, praising the Beneficiary's skills in the field of [redacted] art curation.[3] Here, the letters do not sufficiently explain how the Beneficiary has received significant recognition in the field for his work, nor has the Petitioner shown that the letters themselves constitute such recognition. While the authors discuss his talent and dedication, the letters do not discuss the Beneficiary's achievements in the field beyond confirming that he performed his work admirably in prior projects. For instance, in his aforementioned letter, [redacted], the Beneficiary's supervisor at [redacted], states that the Beneficiary's "long history of curating exhibitions, supporting important new artists, and developing major programs marks [him] as a leader in his field." He confirms that the Beneficiary contributed articles to the exhibition catalogue of the 32nd Biennial [redacted] and participated in professional lectures and workshops at such institutions as the University [redacted], the Institute of Contemporary Arts [redacted] and the [redacted] School of Arts

In addition., [redacted] a curator of [redacted] Art at [redacted] in [redacted] praises the Beneficiary's "extraordinary talent and a deep knowledge of the region." [redacted] associate curator of [redacted] Collections at the [redacted] Institute in [redacted], praises the Beneficiary's contributions to a workshop she conducted, specifically his knowledge of colonial to contemporary [redacted] art and suggestion for curatorial narratives for a related, upcoming exhibition. [redacted] a professor of visual arts for whom the Beneficiary organized a solo exhibition while the Beneficiary was a resident curator at the [redacted] praises the Beneficiary's "impressive experience, despite his young age" and his "interpersonal amazing skills that allowed him to cultivate a strong team environment and gain the respect of his peers." [redacted] and [redacted], professors of art history who evaluated the Beneficiary's work in the doctoral fellowship program [redacted]" describe him as dedicated to "the establishment of multicultural understanding and productive collaborations" and "an internationally sought-after curator regardless of his still young age."

Further, [redacted], artistic director of the [redacted] Museum of Art [redacted] indicates he recommended the Beneficiary as a contributor to the [redacted] art magazine [redacted], for which the Beneficiary "has written on some of the most relevant exhibitions . . . in [redacted] . . . ." [redacted], professor of [redacted] Art at University of [redacted] notes that [redacted] was reviewed by publications such as *Art Review* and *O Globo*. [redacted], a professor of art history who advised the Beneficiary during his doctoral studies at [redacted] asserts that the Beneficiary "has produced a remarkable body of work that achieved recognition in [redacted] and in important art centers abroad."

[3] While we discuss a sampling of these letters, we have reviewed and considered each one.

USCIS may, in its discretion, use as advisory opinions statements submitted as expert testimony. *See Caron International*, 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 are not presumptive evidence of eligibility; USCIS may evaluate the content of those letters as to whether they support the foreign national's eligibility. Furthermore, merely 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). 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 his colleagues, the documentation submitted is insufficient to establish that he has received significant recognition for achievements in the field.

Further, we note that several of the testimonial letters, such as those from [redacted], [redacted], and [redacted] mention the Beneficiary's receipt of the [redacted] Prize in 2015, and characterize the award as '[redacted] highest honor given to art curators." [redacted] who also received the award in 2015, describes it as "the most prestigious [redacted] prize for the arts." While we acknowledge that the award represents some recognition of the Beneficiary's work, the Petitioner has not documented its significance. The record contains insufficient evidence establishing the significance and magnitude of the [redacted] award in the field and the extent to which the winners of the award are recognized beyond the issuing entity. The Petitioner did not provide general information about the competition (such as the eligibility criteria, or the percentage of entrants who earned some type of recognition). Nor is there supporting evidence showing that the recipients of the award were announced in major media or in some other manner consistent with a significant national or international award. Accordingly, the Petitioner has not established that it represents significant recognition for achievements from the award-issuing organization.

Based on the above, we find that the record does not establish that the Beneficiary has received significant recognition for achievements from organizations, critics, government agencies, or other recognized experts in the field of [redacted] art.

B. Comparable Evidence

Finally, as discussed earlier, the Petitioner argued that "[s]hould more regulatory certainty be needed to reach the level for granting the extraordinary ability nonimmigrant approval sought, applying the 'comparable evidence' category . . . makes [the Beneficiary's] body of work meet and reasonably surpass the threshold of preponderance." The regulation at 8 C.F.R. 214.2(o)(3)(iv)(C) provides that "[i]f the criteria in paragraph (o)(3)(iv) of this section do not readily apply to the beneficiary's occupation, the petitioner may submit comparable evidence in order to establish the beneficiary's eligibility." Thus, a petitioner must demonstrate why the regulatory criterion does not pertain to a beneficiary's occupation and how the evidence submitted is "comparable" to the objective evidence required at 8 C.F.R. § 214.2(o)(3)(iv). An inability to meet a regulatory criterion is not necessarily evidence that it does not readily apply to the beneficiary's occupation. Here, the Petitioner does not explain why the regulatory criteria are not readily applicable to the Beneficiary's occupation. The fact that the Petitioner provided documentation that does not meet at least three criteria is not evidence that an associate curator of [redacted] art could not do so. In fact, the Petitioner claimed to meet five

other criteria. For the foregoing reasons, the Petitioner did not demonstrate that it meets the requirements of the comparable evidence provision.

III. CONCLUSION

The Petitioner has not submitted qualifying material under 8 C.F.R. § 214.2(o)(3)(iv)(A) and the record does not establish that the Beneficiary meets at least three of six evidentiary criteria at 8 C.F.R. § 214.2(o)(3)(iv)(B), nor does it meet the requirements of the comparable evidence provision at 8 C.F.R. § 214.2(o)(iv)(C). Consequently, the Petitioner has not established that the Beneficiary is eligible for the O-1 visa classification as an individual of extraordinary ability.

ORDER: The appeal is dismissed.