



**U.S. Citizenship
and Immigration
Services**

**Non-Precedent Decision of the
Administrative Appeals Office**

MATTER OF A-D-S-

DATE: AUG. 25, 2016

APPEAL OF TEXAS SERVICE CENTER DECISION

PETITION: FORM I-140, IMMIGRANT PETITION FOR ALIEN WORKER

The Petitioner, a shoe designer, seeks classification as an individual of “extraordinary ability” in the arts. *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.

The Director, Texas Service Center, denied the petition. He concluded that the Petitioner did not satisfy the initial evidence requirements set forth at 8 C.F.R. § 204.5(h)(3), which necessitates either 1) documentation of a one-time major achievement, or 2) materials that meet at least three of ten regulatory criteria listed under 8 C.F.R. § 204.5(h)(3)(i)-(x).

The matter is now before us on appeal. In her appeal, the Petitioner maintains that the Director erred in finding she did not meet at least three of the ten regulatory criteria under 8 C.F.R. § 204.5(h)(3)(i)-(x). She further states that she is one of the small percentage who is at the very top of the field, and that she has sustained national or international acclaim. *See* 8 C.F.R. § 204.5(h)(2), (3).

Upon *de novo* review, we will sustain the Petitioner’s appeal. For the reasons discussed below, the Petitioner has established her eligibility for the classification sought.

I. LAW

The Petitioner may demonstrate her extraordinary ability through sustained national or international acclaim and achievements that have been recognized in her field through extensive documentation. Specifically, section 203(b)(1)(A) of the Act states:

Aliens with extraordinary ability. -- An alien is described in this subparagraph 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,

(b)(6)

Matter of A-D-S-

(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 her achievements in the field through a one-time achievement (that is a major, internationally recognized award). If she does not submit this documentation, then she must provide sufficient qualifying evidence that meets at least three of the ten criteria listed at 8 C.F.R. § 204.5(h)(3)(i)-(x).

Satisfaction of at least three criteria, however, does not, in and of itself, establish eligibility for this classification. See *Kazarian v. USCIS*, 596 F.3d 1115 (9th Cir. 2010) (discussing a two-part review where the documentation is first counted and then, if fulfilling the required number of criteria, considered in the context of a final merits determination); see also *Visinscaia v. Beers*, 4 F. Supp. 3d 126, 131-32 (D.D.C. 2013); *Rijal v. USCIS*, 772 F. Supp. 2d 1339 (W.D. Wash. 2011), *aff'd*, 683 F.3d 1030 (9th Cir. 2012); *Matter of Chawathe*, 25 I&N Dec. 369, 376 (AAO 2010) (holding that the "truth is to be determined not by the quantity of evidence alone but by its quality" and that U.S. Citizenship and Immigration Services (USCIS) examines "each piece of evidence for relevance, probative value, and credibility, both individually and within the context of the totality of the evidence, to determine whether the fact to be proven is probably true"). Accordingly, where a petitioner submits qualifying evidence under at least three criteria, we will determine whether the totality of 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.

II. ANALYSIS

The Director concluded that the Petitioner met the published material criterion under 8 C.F.R. § 204.5(h)(3)(iii). The record supports this finding. [REDACTED] published an article entitled [REDACTED] in its [REDACTED] magazine, which credited the Petitioner for the "rebirth" of "the world's most reliable footwear" – [REDACTED] is one of Canada's top newspapers based on circulation and readership. The Petitioner has therefore met the published material criterion.

The Director also found that the Petitioner met the leading and critical role criterion under the regulation at 8 C.F.R. § 204.5(h)(3)(viii). The record supports this conclusion. The Petitioner has demonstrated that she performed a leading or critical role as the lead designer for [REDACTED] brand shoes. She was the lead and only designer for the brand. She was "charged with the conceptualization of the design, choosing the materials, textures, color schemes, manufacturing details, and all decisions related to creating the [REDACTED] line." The Petitioner has also documented that the [REDACTED] brand has a distinguished reputation. She has presented published materials from numerous well-known fashion

(b)(6)

Matter of A-D-S-

magazines, including [redacted] and [redacted] that recommended [redacted] shoes to their readers. The Petitioner has therefore met the leading or critical role criterion.

The Petitioner has submitted evidence showing that she meets the criterion for display at artistic exhibitions or showcases under 8 C.F.R. § 204.5(h)(3)(vii). As the lead designer for [redacted] the Petitioner collaborated with [redacted] a clothing and shoe designer with an international reputation, to create a collection of footwear for [redacted] displayed their collaborative efforts in fashion shows. One publication commented on the unique display of [redacted] and the Petitioner's designs. Another article stated that [redacted] and [the Petitioner] have worked together to create a line of shoes that pay homage to 50's-style footwear, while simultaneously embracing the contemporary young woman who scours vintage stores in search of collectible to sprinkle into her wardrobe." The Petitioner has presented proof of the display of her work in artistic showcases, and has therefore met this criterion.

B. Final Merits Determination

As the Petitioner has submitted the requisite initial evidence, we will conduct a final merits determination. We will consider the entire record in the context of whether she has demonstrated: (1) that she enjoys a level of expertise indicating that she is "one of a small percentage who have risen to the very top of the field"; and (2) that she has sustained national or international acclaim and that her achievements have been recognized in the field. *See* section 203(b)(1)(A) of the Act; 8 C.F.R. § 204.5(h)(2), (3); *see also Kazarian*, 596 F.3d at 1119-20. Based on the documentation, and consistent with *Matter of Price*, 20 I&N Dec. 953 (Act. Assoc. Comm'r 1994), the Petitioner has made the requisite showing.

The Petitioner is an established shoe designer who has contributed to the success of well-known brands. She began working for [redacted] in 1999, and designed shoes that reestablished the brand. According to a 2002 article, [redacted] are hip, and credit for the recent rebirth of the brand goes largely to [the Petitioner,] a young shoe designer in [redacted]. The Petitioner then started her position with [redacted] another shoe brand, in 2003. As [redacted] first designer, she designed for the entire brand. She "revolutioniz[ed]" its business plan, changing it from "buyer based to label exclusivity." [redacted] the director of [redacted] Product Services and Design, verified that the Petitioner's work had "a very tangible impact on the increase in [redacted] customer loyalty, profitability, and international visibility." She stated that the Petitioner had contributed to making [redacted] an internationally known shoe line.

After [redacted] the Petitioner became the only designer for [redacted] where she revamped and revitalized the [redacted] a senior footwear line builder at [redacted] affirmed that the Petitioner was responsible for "the design and revitalization of [the [redacted] brand and thus [for] its being catapulted into the spotlight and featured in the world's most authoritative fashion magazines." [redacted] indicated that the Petitioner "conceptualized, designed and executed all of [redacted] brand shoes]. Anything creative that came from the [redacted] label came directly from her, and therefore the success of [redacted] as a company was 100% contingent on [the Petitioner.]" [redacted] a

Matter of A-D-S-

founder of a public relations agency, provided that the Petitioner's designs moved [redacted] "into new stratosphere of success." [redacted] the vice president of sales at [redacted] which owns the [redacted] brand, noted that "[t]here is no one besides [the Petitioner] who can be credited with the design of the [redacted] brand as it returned to glory and there is no one else who can be credited [for] its commercial success." [redacted] explained that the [redacted] brand "goes back 137 years," and that it is an "internationally respected" brand based, in part, on its "classic [redacted] which has remained relevant in the fashion industry through the years.

Experts in the industry, including [redacted] and [redacted] confirmed that the field has recognized the Petitioner's achievements. They indicated that the Petitioner created a shoe trend and her designs had a significant impact on the fashion industry. [redacted] stated that the Petitioner's [redacted] and [redacted] designs appeared in multiple influential fashion magazines, became favorite shoes of celebrities, and inspired many "knock-off" versions from other shoe designers and manufacturers. [redacted] offered that the Petitioner's influence in the field "is absolutely undeniable" and noted that she "took an existing style that had faded into the past and reinvented it, adding a modern edge, so that it became wildly popular." [redacted] verified that the Petitioner's designs "are known throughout the world" and "many have emulated her styles."

Similarly, [redacted] indicated that the Petitioner is "the known designer of the [redacted] [redacted] and through her designs, she "created a trend" that was copied by well-known designers and labels. [redacted] stated that the Petitioner's "re-design of the classic style influenced the entire fashion industry in one fell swoop." [redacted] the chief executive officer of [redacted] offered that the Petitioner "transformed the simplistic [redacted] style and revolutionized the brand to bring a modern edge causing a revitalization of a passed beloved style and creating a new trend." [redacted] provided that the Petitioner "has influenced the field of women's footwear" because she is one of "a rare few of the greats [who] have been successful in starting a full blown nation[wide] trend." [redacted] noted that the Petitioner "is known far and wide on an international scale by anyone who has any relationship to footwear design." Particularly, the Petitioner is "responsible for the resurgence of the classic [redacted] shoe and the [redacted] concluded that "[t]o single handedly bring a style back from the dead, with subtle changes to give it a more modern flare, [as the Petitioner has done,] is to reach the apex of the fashion industry."

The published materials in the record verified that the Petitioner is one of a small percentage who has risen to the very top of the field. Many widely read and high profile fashion journals, which [redacted] called "the bibles of the fashion world," featured the Petitioner's shoes in their editorial pages and style guides. These publications recommended the Petitioner's shoes to their readers, and offered styling suggestions. [redacted] noted that these magazines "determine the brands that people purchase," and their editors "only select the most influencing designs – designs that show trends and trend leaders." Similarly, [redacted] major media in Canada, validated the Petitioner's top status in the field. It profiled her work and her contributions in bringing fresh and chic shoe designs to [redacted] that reestablished the brand in the fashion industry.

Matter of A-D-S-

Many major retailers sell [redacted] shoes that the Petitioner designed, either as its lead designer, or in collaboration with [redacted]. These stores include [redacted] and [redacted] noted that [redacted] “known throughout the world as carrying the most elite brands and styles,” decided to carry [redacted] brand shoes “because of the Petitioner’s designs. [redacted] stated that the Petitioner “must be given 100% credit” for reinventing [redacted] and allowing the brand to “achieve [its] commercial goal of being sold at the up-scale fashion retailer, [redacted]. Similarly, [redacted] credited the success of her brand to the Petitioner, indicating that the Petitioner “played an enormous part in the design concepts” and “was predominantly responsible for the line.”

Finally, the Petitioner has submitted evidence substantiating her international acclaim as a shoe designer. [redacted] stated that the Petitioner “is truly one of the most talented designers of our time,” and “has significantly influenced the field of fashion by bringing 2 sho[e] classics back into the spotlight and is responsible for catapulting [redacted] an already well known company to the next level of success.” [redacted] indicated that the Petitioner “has influenced the industry” and “is one of the very best in this field.” He further noted that the Petitioner is “renowned among other high profile fashion designers,” “she’s renowned among the many celebrities who have worn her designs,” and she has reached the “pinnacle of the field as a designer with international recognition.” [redacted] confirmed that, “without any doubt, hesitation or hyperbole[, the Petitioner’s] reach and her reputation is absolutely international” and that “[her] designs are known throughout the world and can be seen in internationally circulated publications.”

The evidence includes the Petitioner’s past and current employment, the success that she brought to these employers, the impact and significance of her designs in the fashion industry, the frequency of her designs appearing in prominent fashion publications, and the reference letters that attested to her acclaim. The record, in the aggregate, confirms that she enjoys a level of expertise consistent with a finding that she is one of a small percentage who has risen to the very top of the field of endeavor, that she has sustained national or international acclaim, and that her achievements have been recognized in the field of expertise. *See* section 203(b)(1)(A) of the Act; 8 C.F.R. § 204.5(h)(2), (3); *see also Kazarian*, 596 F.3d at 1119-20. Accordingly, the Petitioner has established by a preponderance of the evidence that she is eligible for the exclusive classification sought.

III. CONCLUSION

The Petitioner has submitted qualifying evidence under at least three of the ten evidentiary criteria and has documented that she has attained a “level of expertise indicating that [she] is one of that small percentage who have risen to the very top of the field of endeavor” and “sustained national or international acclaim.” The Petitioner’s achievements have been recognized in her field of expertise. She has shown that she seeks to continue working in the same field in the United States and that her entry into the United States will substantially benefit prospectively the United States. Therefore, the Petitioner has demonstrated her eligibility for the benefit sought under section 203 of the Act.

Matter of A-D-S-

It is the Petitioner's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). Here, the Petitioner has met that burden.

ORDER: The appeal is sustained.

Cite as *Matter of A-D-S-*, ID# 17626 (AAO Aug. 25, 2016)