



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

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

In Re: 8745582

Date: JULY 14, 2020

Appeal of Nebraska Service Center Decision

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

The Petitioner, a pianist, 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.

The Director of the Nebraska Service Center denied the petition, concluding that the Petitioner had satisfied only two of the ten initial evidentiary criteria, of which she must meet at least three.

In these proceedings, it is the Petitioner's burden to establish eligibility for the requested benefit. *See* Section 291 of the Act, 8 U.S.C. § 1361. 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,
- (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).

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 (9th Cir. 2010).

II. ANALYSIS

The Petitioner is a pianist who has performed individually and as a guest artist with multiple ensembles. Between 2008 and 2017, the Petitioner studied at the University of [redacted] School of Music, University of [redacted] and the [redacted] of Music. Because the Petitioner has not claimed or established that she has received a major, internationally recognized award, she must satisfy at least three of the alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x).

In denying the petition, the Director determined that the Petitioner fulfilled only two of the initial evidentiary criteria, lesser nationally or internationally recognized prizes or awards at 8 C.F.R. § 204.5(h)(3)(i) and published material in professional publications or major media under 8 C.F.R. § 204.5(h)(3)(iii). We do not concur with the Director's decision relating to the awards and published material criteria for the reasons discussed below.

On appeal, the Petitioner asserts that she meets three additional criteria. After reviewing all the evidence in the record, we conclude that the Petitioner does not establish that she satisfies the requirements of at least three criteria.

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).

The Director found that the Petitioner satisfied this criterion without identifying the qualifying material and explaining his determination. In order to fulfill this criterion, the Petitioner must demonstrate that she received the prizes or awards, and they are nationally or internationally recognized for excellence in the field of endeavor.¹ 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 the number of awardees or prize recipients as well as any limitations on competitors.² Because the record does not reflect that the Petitioner established eligibility under the regulation at 8 C.F.R. § 204.5(h)(3)(i), we will withdraw the findings of the Director for this criterion.

¹ See USCIS Policy Memorandum PM 602-0005.1, *Evaluation of Evidence Submitted with Certain Form I-140 Petitions; Revisions to the Adjudicator's Field Manual (AFM) Chapter 22.2, AFM Update AD11-14 6* (Dec. 22, 2010), <https://www.uscis.gov/policymanual/HTML/PolicyManual.html>.

² *Id.*

The Petitioner argues that she meets this criterion based on having received first prize in the inaugural [redacted] International Music Competition [redacted] 2016), first prize in the [redacted] [redacted] International Musical Composition Competition [redacted] 2016), prize of honor in the [redacted] International Music Competition ([redacted] 2016), first prize in the [redacted] [redacted] International Music Performance Competition ([redacted] 2017), and first and second prizes in the [redacted] International Music Competition [redacted] 2017).

A screenshot from the website [redacted].com indicates the [redacted] International Music Performance Competition is organized by [redacted] Association of [redacted] an association that organizes “events of great artistic and cultural value in [redacted] and the province,” and that the 2016 edition of the competition saw “290 competitors from as many as 35 countries.” General rules for the 2019 edition of the competition indicate it is open to musicians age 40 and younger and operates “to select musicians with high professional qualities to be introduced in [the] national and international concert circuit.” The rules also provide that first prize in the Petitioner’s age category includes three concerts in the upcoming season of the [redacted] Music Association [redacted] and €1,000.

The Petitioner also submitted information about the inaugural [redacted] Talents International Music competition, indicating that event included 106 entrants competing in three categories, with a jury composed of “masters and artists of renown in [redacted] and internationally.” The materials state that the goal of [redacted] Talents is “to organize informal community-building cultural, educational and entertaining programs, events and competitions,” aimed at “the discovery of young talented musicians,” “the propagation of [redacted] musical traditions” and familiarizing “participants and visitors alike with the gorgeous [redacted]”

Regarding the [redacted] International Musical Composition Competition, the submitted rules for the [redacted] edition of the competition indicate it is organized by the musical association Friends of Music of [redacted] and “aims to develop musical creativity and encourage young people to study music.” The rules provide that the jury “is composed by teachers of composition from the Italian conservatories and Composers of renown fame (at least three in number)” and the winning composition “could be performed” during the 2015 Friends of Music of [redacted] concert season.

Further, the Petitioner submitted rules for the 2019 [redacted] International Piano Competition, which provide that the competition is organized by the Cultural and Musical Association [redacted] in cooperation with the [redacted] Municipal Town Council. The competition is open to pianists under age 40, with the aim being “to promote both Musical Culture and music performance in order to encourage young students in their study of music, to search for young talent and to attract visitors to come to the beautiful [redacted] in Italy.” The rules provide that “[t]he Panel, selected by members of the Organizing Committee, will be made up of teachers from different Conservatories, concert artists and well-known musicians,” with first prize to include €1,500 and two concerts.

The record also includes a screenshot from the website [redacted].org, which provides that the [redacted] International Music Competition is organized by the municipality of [redacted] to provide “young musicians . . . the opportunity to show their talent” and winners to perform “at the concerts specially arranged for them,” and to promote the “cultural heritage of [redacted] and the whole Province [redacted]”

Here, the evidence does not demonstrate that any of the aforementioned prizes is a nationally or internationally recognized prize for excellence in the field. Although the documentation from the sponsoring organizations reflects information about the competitions, it does not contain material sufficiently evidencing the national or international significance of the prizes in the field. While the sponsoring associations describe their competitions as being international events, the evidence does not demonstrate that the stated prizes and awards the Petitioner has won are actually nationally or internationally recognized. Rather, the materials from those organizations indicate the competitions are municipal competitions, and the record does not establish that the Petitioner's prizes in those local contests were a nationally or internationally recognized award for excellence in her field of endeavor.

In addition, the evidence indicates that the [redacted] International Music Performance Competition and the [redacted] International Piano Competition are restricted by age, and the highest first prize award in all the above-referenced competitions receives €1,500. The Petitioner did not show that such limited age requirements and minor prize money are characteristic of a nationally or internationally recognized prize for excellence in the field. Further, while [redacted] and [redacted] refer to the aforementioned competitions as "prestigious" and "renowned and highly competitive international musical competitions," the authors did not support their assertions with detailed, specific, and objective information explaining how the overall field views the prizes beyond the sponsoring organizations. The Petitioner also did not submit other evidence of the national or international recognition of her awards, such as national or widespread local coverage of her awards in arts, entertainment, or general media. The Petitioner provided two press releases dated 2017 from the websites classical-music.com and stbrides.com for recitals at [redacted] churches that mention her prizes in the [redacted] Talents International Music Competition, [redacted] International Musical Composition Competition, and [redacted] International Music Performance Competition. However, this limited media attention does not sufficiently establish that first place prizes at those competitions are nationally or internationally recognized for excellence in the field.

Because the Petitioner did not demonstrate that she received nationally or internationally recognized prizes or awards for excellence in the field, she did not establish that she meets this criterion.

Published 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. 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).

The Director found that the Petitioner satisfied this criterion without identifying the qualifying material and explaining his determination. In order to satisfy this criterion, the Petitioner must demonstrate published material about her in professional or major trade publications or other major media, as well as the title, date, and author of the material.³ Because the record does not reflect that the Petitioner established eligibility under the regulation at 8 C.F.R. § 204.5(h)(3)(iii), we will withdraw the findings of the Director for this criterion. The record reflects that the Petitioner claimed eligibility for this criterion based on articles published in *The Piano*, *The Journal of Music*, and on the websites classical-music.com, stbrides.com, newsrep.co.kr, pandovando.com, and donga.com.

³ See USCIS Policy Memorandum PM 602-0005.1, *supra*, at 7.

The Petitioner submitted articles from *The Journal of Music*, newsrep.co.kr, and donga.com, indicating published material about her relating to her work and containing the required title, date, author, and translation. The Petitioner did not demonstrate, however, that those publications represents a professional or major trade publication or other major medium. The Petitioner provided a chart titled “Verified Circulation of 163 Daily Newspapers in 2017 (for 2016) in Order of Paid Subscription,” not bearing any indicia of who prepared the chart, which lists the circulation and distribution statistics of newspapers including *Dong-A Ilbo*, indicating it ranks 2. The Petitioner did not provide supporting evidence indicating that the online edition of this publication qualifies as major media.⁴

Regarding the website classical-music.com, the article from that website indicates it is “[t]he official website of *BBC Music Magazine*.” The Petitioner submitted a 2016 media kit for BBC Music Magazine indicating its online reach includes “82K users” and a newsletter circulation of “22K weekly.” She did not demonstrate that those statistics for classical-music.com reflect the website’s major status. The Petitioner, for instance, did not explain the significance of the circulation figures.⁵ Further, we note that the author of the article is not identified.

In addition, while the articles from *The Piano* and stbrides.com are about the Petitioner relating to her work, they do not identify the author, and the item from *The Piano* does not contain the required certification from the translator.⁶ Further, the article from padovando.com is not accompanied by an English language translation. Finally, those articles are not accompanied by any evidence that they qualify as a professional publication, major trade publication, or other major media.

Accordingly, the Petitioner did not show that she meets this criterion.

Evidence of the individual’s original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field. 8 C.F.R. § 204.5(h)(3)(v).

In order to satisfy this criterion, a petitioner must establish that not only has she made original contributions, but that they have been of major significance in the field.⁷ For example, a petitioner may show that the contributions have been widely implemented throughout the field, have remarkably impacted or influenced the field, or have otherwise risen to a level of major significance in the field.

The Petitioner has provided letters that praise her abilities as a pianist. All of the authors summarize her educational background and highlight her receipt of awards and prizes in the aforementioned [redacted] International Music Competition, [redacted] International Musical Composition Competition, [redacted] International Music Performance Competition, [redacted] Talents International

⁴ See USCIS Policy Memorandum PM 602-0005.1, *supra*, at 7 (indicating that evidence of published material in professional or major trade publications or in other major media publications should establish that the circulation (on-line or in print) is high compared to other circulation statistics).

⁵ *Id.*

⁶ Any document in a foreign language must be accompanied by a full English language translation. 8 C.F.R. § 103.2(b)(3). The translator must certify that the English language translation is complete and accurate, and that the translator is competent to translate from the foreign language into English. *Id.*

⁷ See USCIS Policy Memorandum PM 602-0005.1, *supra*, at 8-9 (finding that although funded and published work may be “original,” this fact alone is not sufficient to establish that the work is of major significance).

Music Competition, and [redacted] International Music Competition. The letters submitted are from the Petitioner's own former colleagues and, therefore, do not demonstrate the Petitioner's significant recognition outside of that circle. In addition, while the letters praise the Petitioner's innate talent and artistry, they do not contain sufficient information to establish how she has made an original contribution that has remarkably influenced or impacted the field.

For instance, [redacted] a piano professor and the Petitioner's mentor at the [redacted] of Music, praises her precise interpretation of piano repertoire, "unrivaled" piano performance skills, and "unmatched and phenomenal musical talent and passion in piano." He notes that she "was invited to perform at various distinguished concerts all throughout Europe placing her as one of the leading active concert pianists in present time." He asserts that such performance opportunities "are only given to artists who ha[ve] exceptional skills and musical forte at the highest level as [the Petitioner]." He asserts that with her "sensational musical performances" the Petitioner "has achieved a celebrated prominence in the field."

[redacted] a piano professor and the Petitioner's doctoral advisor at the University of [redacted] states that the Petitioner has "extraordinary skills and passion for piano performance" and is "an internationally recognized and acclaimed pianist in the modern era who has made significant progress in the field of piano performance." He notes that during her doctoral studies the Petitioner worked on a project making an integrated suite out of fragments Mozart's Baroque-style composition studies and performed the piece at the University of [redacted] and a recital at [redacted] in [redacted] Spain. He describes her as "far above the median level of pianists" and "among the top and most valuable pianists active in the world." [redacted] a musicology professor and member of the Petitioner's dissertation committee at the University of [redacted] states that the Petitioner's "academic credentials place her far above the typical pianist and musician in our field, and musical talent places her among the top circles in the world."

[redacted] a piano professor at the [redacted] of Music, praises the Petitioner's "extraordinary talent and skills in piano performance and musical concerto." She provides that the Petitioner's "precise execution of classical music is unmatched within the field" and she possesses "a level of musical acumen . . . that only the few in the field are gifted with." She describes her as "one of the most talented and celebrated musician[s] in our era" who "has accomplished so much at a young age" We note that [redacted] uses identical language to that contained in the letter from [redacted] in stating that the Petitioner "was invited to perform at various distinguished concerts all throughout Europe placing her as one of the leading active concert pianists in present time." Similarly to his letter she also asserts that such performance opportunities are only given to "the most talented pianists possessing exceptional skills and musical aptitude as [the Petitioner]"

Although the submitted letters corroborate that the Petitioner's abilities as a concert pianist are highly regarded, they do not contain specific, detailed information identifying the Petitioner's original contributions and explaining the unusual influence her work has had in the overall field. Letters that specifically articulate how a petitioner's contributions are of major significance to the field and its impact on subsequent work add value.⁸ Here, the letters do not demonstrate the Petitioner's impact

⁸ See USCIS Policy Memorandum PM 602-0005.1, *supra*, at 8-9.

beyond the projects and performances in which she participated.⁹ We acknowledge that [redacted] [redacted]'s letter confirms that during her doctoral studies the Petitioner constructed an integrated suite out of fragments Mozart's Baroque-style composition studies. His letter does not establish, however, that the Petitioner's work in this regard amounts to an original contribution of major significance.

For the reasons discussed above, considered both individually and collectively, the Petitioner has not shown that she has made original contributions of major significance in the field.

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).

In order to demonstrate eligibility for this criterion, a petitioner must show that her work was on display, and the venues were artistic exhibitions or showcases.¹⁰ Here, the record contains evidence that Petitioner displayed her work performing at various artistic, musical venues. Accordingly, the Petitioner demonstrated that she satisfies this criterion.

III. CONCLUSION

The Petitioner has not submitted the required initial evidence of a one-time achievement. Further, we find that although the Petitioner met the display criterion, she did not establish that she meets the criteria relating to nationally or internationally recognized awards, published material, and original contributions of major significance. We acknowledge that the Petitioner claims eligibility under one additional criterion on appeal, relating to leading or critical roles with organizations or establishments that have a distinguished reputation at 8 C.F.R. § 204.5(h)(3)(viii). However, as the Petitioner cannot fulfill the initial evidentiary requirement of three criteria under 8 C.F.R. § 204.5(h)(3), we reserve this remaining criterion.¹¹ In addition, we need not provide the type of final merits determination referenced in *Kazarian*, 596 F.3d at 1119-20.¹² Nevertheless, we advise that we have reviewed the record in the aggregate, concluding that it does not support a finding that the Petitioner has established the acclaim and recognition required for the classification sought.

The Petitioner seeks a highly restrictive visa classification, intended for individuals already at the top of their respective fields, rather than for individuals progressing toward the top. USCIS has long held that even athletes performing at the major league level do not automatically meet the "extraordinary ability" standard. *Matter of Price*, 20 I&N Dec. 953, 954 (Assoc. Comm'r 1994). Here, the Petitioner has not shown that the significance of her work is indicative of the required sustained national or international acclaim or that 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)

⁹ *Id.*; *see also Visinscaia v. Beers*, 4 F. Supp. 3d 126, 134-35 (D.D.C. 2013) (upholding a finding that a ballroom dancer had not met this criterion because she did not corroborate her impact in the field as a whole).

¹⁰ *See* USCIS Policy Memorandum PM-602-0005.1, *supra*, at 9.

¹¹ *See INS v. Bagambashad*, 429 U.S. 24, 25-26 (1976) (stating that, like courts, federal agencies are not generally required to make findings and decisions unnecessary to the results they reach).

¹² In addition, as the Petitioner has not established her extraordinary ability under section 203(b)(1)(A)(i) of the Act, we need not determine whether she is coming to "continue work in the area of extraordinary ability" under section 203(b)(1)(A)(ii) and will not address the Director's separate finding with respect to that issue.

of the Act. Moreover, the record does not otherwise demonstrate that 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). Although the Petitioner has displayed her work in piano performances at various artistic, musical venues, the record does not contain sufficient evidence establishing that she is among the upper echelon in her field.

For the reasons discussed above, the Petitioner has not demonstrated her eligibility as an individual 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.