



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

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

In Re: 8618586

Date: MAY 29, 2020

Appeal of Nebraska Service Center Decision

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

The Petitioner, a philanthropist, 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 one of the 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) 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 indicates employment as president of the [redacted] in [redacted] Province, China. Because the Petitioner has not 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 one of the initial evidentiary criteria, judging at 8 C.F.R. § 204.5(h)(3)(iv). The record reflects that the Petitioner judged two speech contests, thereby meeting the judging criterion.

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

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 Petitioner argues that she “submitted evidence of published material featuring her work as a Philanthropist by China Central Television [CCTV] . . . on the [redacted] 2010, titled [redacted] [redacted] [which] was published via three CCTV platforms; a televised news segment, in print, and online.” In order to meet 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.¹

The record reflects that the Petitioner presented translations of screenshots from viponline.cctv.com indicating an interview of three individuals, one of which is with the Petitioner. Although the screenshots indicate cctv.com is the source of the material, the Petitioner did not include the required author. The inclusion of the author is not optional but a regulatory requirement. *See* 8 C.F.R. § 204.5(h)(3)(iii).

Moreover, the material is not about the Petitioner. Instead, the host asks questions of the interviewees relating to ‘[redacted]’ Regarding the Petitioner’s portion of the interview, the host requested

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 7* (Dec. 22, 2010), <https://www.uscis.gov/policymanual/HTML/PolicyManual.html>.

the Petitioner to provide a briefing on [redacted] including the overall development situation. Here, the screenshots reflect published material about [redacted] rather than about the Petitioner. Articles that are not about an alien do not fulfill this regulatory criterion. *See, e.g., Negro-Plumpe v. Okin*, 2:07-CV-820-ECR-RJJ at *1, *7 (D. Nev. Sept. 8, 2008) (upholding a finding that articles regarding a show are not about the actor).

Furthermore, as indicated above, the Petitioner claims CCTV published the material on three media platforms: a televised news segment, in print, and online. However, the Petitioner did not support the record showing that CCTV broadcasted the interview on “a televised news segment” or that CCTV “printed” the interview in a publication. Again, the record reflects that the Petitioner submitted screenshots of an interview posted on vionline.cctv.com. Moreover, although the Petitioner submitted documentation relating to CCTV (the television station), she did not demonstrate that its website or vionline.cctv.com represents a major medium.² In addition, while a screenshot from cctv.com claimed that it “has become one of the most popular websites in the country,” the Petitioner did not offer any independent, objective evidence to corroborate the website’s assertion. USCIS need not rely on the self-promotional material of the publisher. *See Braga v. Poulos*, No. CV 06 5105 SJO (C.D. CA July 6, 2007), *aff’d* 2009 WL 604888 (9th Cir. 2009) (concluding that self-serving assertions on the cover of a magazine as to the magazine’s status is not reliable evidence of a major medium).

Moreover, the Petitioner contends her eligibility for this criterion based on an article entitled, [redacted] published in *China Youth Daily* and posted on cyol.net. The article, however, is about the [redacted] the [redacted] [redacted] and the [redacted] [redacted]. In fact, the Petitioner is briefly mentioned one time in providing a quote relating to the [redacted]. Here, the Petitioner did not demonstrate that the article reflects published material about her relating to her work consistent with this regulatory criterion.

In addition, the Petitioner did not establish that *China Youth Daily* or cyol.net represents a major medium. The record reflects that the Petitioner submitted a screenshot from cyol.net claiming that “*China Youth Daily* is a very influential comprehensive daily newspaper in China” and “one of China’s best selling domestic newspapers.” In addition, the Petitioner offered a screenshot from commonpurpose.org reflecting that *China Youth Daily* is one of Common Purpose’s sponsors and cites to information contained on cyol.net. However, the Petitioner did not provide independent, objective evidence supporting the self-serving assertions of *China Youth Daily*. Moreover, the Petitioner did not offer evidence relating to cyol.net’s status as a major medium.

For the reasons discussed above, the Petitioner did not show that she satisfies this criterion.

² *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).

Evidence of the alien'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 meet the regulation at 8 C.F.R. § 204.5(h)(3)(v), a petitioner must establish that not only has she made original contributions, but that they have been of major significance in the field.³ 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 contends that she “has changed the lives of many impoverished population nationwide via leading [redacted]” and points to a letter from [redacted], [redacted] of *China Youth Daily's* [redacted]. As it relates to [redacted]'s letter, he described various projects of [redacted] such as the “[redacted]” and “[redacted]” involving the construction of roads, bridges, and plazas and educating and training lower income students. In addition, the Petitioner points to media coverage of six articles from *China Youth Daily*, *People's Daily*, *people.cn*, *hn.qq.com*, *voc.com.cn*, and *danzhou.gov.cn*, reporting on [redacted] and its projects.

The *China Youth Daily* article referenced above summarized [redacted] as:

A large-scale social public benefit activity initiated by the [redacted] Provincial Party Committee of Communist Youth League in 2004 on the basis of the touching artistic conception and creativity of Tang Dynasty Poem Troubadour's Lament composed by Jiao Meng. The purpose is to carry forward the Chinese civilization for feeding the people of the native land, and give full play to the emotional ties of family affection, hometown affection and friendship affection, so as to inspire the affection of feeding hometown and call the native people who are working or living far away hometown to do something for hometown, and jointly promote the economic and cultural development of the hometown and promote the harmonious progress of their society.

Further, the record contains a letter from [redacted] vice director of [redacted], who stated that the Petitioner joined the [redacted] and acted as vice director in September 2007. Moreover, [redacted] similarly summarized [redacted] as:

A large-scale social public welfare actively firstly launched by [redacted] which is aimed at carrying forward Chinese Civilization and repaying homeland and kinfolk, giving full play the emotional ties of “kinship, nostalgia and friendship,” inspiring the feelings of those travelers far from home, and calling on them to return hometown to jointly promote the economic and cultural development of hometowns and the harmony and progress of the society.

³ 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).

In regards to her claim of “leading [redacted]” the record does not support her assertion. In her initial cover letter, the Petitioner indicated that she “is the President of the renowned [redacted] [sic] [redacted]” However, none of the documentation contained in the record demonstrates that she has ever occupied the position of “President” with either [redacted] Action overall or within any of the subsidiaries or departments within [redacted] In fact, according to her résumé, she has held the positions of vice director of [redacted] (2007 – 2008), director of [redacted] (2008 – 2012), chairman of [redacted] (2009 – 2012), and honorary chairman of [redacted] (2014 – present). The petitioner must resolve inconsistencies in the record with independent, objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988).

Furthermore, the Petitioner did not demonstrate that [redacted] is her original contribution. As indicated above, [redacted] began in 2004 by the [redacted] Provincial Party Committee of Communist Youth League, and the Petitioner commenced employment with the [redacted] Province three years after and then later with the [redacted]

In addition, the Petitioner did not establish that any of the projects conducted by the [redacted] or the [redacted] were attributed to her original contributions. Moreover, none of the media articles mentioned her, let alone credited her for creating any of the projects. Further, the letters generally claimed that the Petitioner led and directed the projects without providing specific information explaining how the projects were original to her. For instance, [redacted] stated that the Petitioner “led all employees of [redacted] and [redacted] to actively plan and carry out a series of public welfare activities.” While [redacted] listed and briefly described six programs, he did not show how leading, planning, and carrying out the public welfare activities of the center or foundation are original contributions of the Petitioner.

Moreover, although the articles and letters discuss various welfare projects assisting individuals, the Petitioner’s evidence does not sufficiently demonstrate how the programs have been of major significance in her field overall.⁴ Further, the documentation indicates the influence of the projects in [redacted] Province rather than in her field in general. The Petitioner, for example, did not show how the welfare activities have influenced or impacted the field as a whole in a significant, major manner.

Here, the Petitioner’s letters do not contain specific, detailed information identifying her original contributions and explaining the unusual influence her contributions have had on the overall field. Letters that specifically articulate how a petitioner’s contributions are of major significance in the field and its impact on subsequent work add value.⁵ On the other hand, letters that lack specifics and use hyperbolic language do not add value, and are not considered to be probative evidence that may form

⁴ See USCIS Policy Memorandum PM 602-0005.1, *supra*, at 8-9; see also *Visinscaia*, 4 F. Supp. 3d at 134-35 (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).

⁵ See USCIS Policy Memorandum PM 602-0005.1, *supra*, at 8-9.

the basis for meeting this criterion.⁶ Moreover, USCIS need not accept primarily conclusory statements. *1756, Inc. v. The U.S. Att’y Gen.*, 745 F. Supp. 9, 15 (D.C. Dist. 1990).

Furthermore, the Petitioner argues that she “has [*sic*] significant impact on the entire charity system in China which has been demonstrated by the adoption of her methodology by other local governments all over in China” and references an article from qstheory.cn, a propaganda website from the Chinese government, stating that [redacted]’s “activities extend[] to other provinces and even to abroad.” However, the article does not credit the Petitioner with making original contributions, let alone mention her. Moreover, while the article claims that [redacted] has expanded to other provinces and abroad, the article indicates several individuals who returned to [redacted] Province to offer charitable work or provide donations. In addition, the article does not support the Petitioner’s assertions that she impacted the entire charity system in China and her methodology has been adopted by local governments all over China. In fact, the article does not reference any local governments beyond [redacted] Province. Here, the Petitioner did not establish that the article sufficiently shows that she has made original contributions, and that they are majorly significant in the field.

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

III. CONCLUSION

We find that the Petitioner does not satisfy the criteria relating to published material and original contributions. Although she claims eligibility for an additional criterion on appeal, relating to leading or critical role at 8 C.F.R. § 204.5(h)(3)(viii), we need not reach this additional ground. As the Petitioner cannot fulfill the initial evidentiary requirement of three criteria under 8 C.F.R. § 204.5(h)(3), we reserve this issue.⁷ Accordingly, we need not provide the type of final merits determination referenced in *Kazarian*, 596 F.3d at 1119-20. 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) 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).

⁶ *Id.* at 9. *See also Kazarian*, 580 F.3d at 1036, *aff’d* in part 596 F.3d at 1115 (holding that letters that repeat the regulatory language but do not explain how an individual’s contributions have already influenced the field are insufficient to establish original contributions of major significance in the field).

⁷ *See INS v. Bagamasbad*, 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).

Although the Petitioner has experience in philanthropy, 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.