



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

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

In Re: 19550253

Date: JAN. 05, 2022

Appeal of Texas Service Center Decision

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

The Petitioner, an economics instructor, 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 Texas Service Center denied the petition, concluding that the record did not establish that the Petitioner met the initial evidence requirements for this classification through evidence that she meets at least three of the evidentiary criteria under 8 C.F.R. § 204.5(h)(3).

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 international 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 criteria 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) (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).

II. ANALYSIS

The Petitioner is a former professor of economics who has more recently been self-employed. She was issued a candidate of science degree in economic science in 2008 by the Supreme Certifying Commission of Ukraine, and previously earned a master of economics degree from the [REDACTED] [REDACTED]. She states that she intends to continue to teach and publish research in the field of economics, but also submitted an employment offer from a business in New Jersey for a vaguely defined position.

A. Evidentiary Criteria

Because the Petitioner has not indicated 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). The Director found that the Petitioner met two of the evidentiary criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x), relating to her authorship of scholarly articles and participation as a judge of the work of others in her field. We agree with the Director's determinations regarding these criteria. On appeal, the Petitioner asserts that she also meets the evidentiary criteria relating to original contributions of major significance to the field and a leading or critical role. After reviewing all of the evidence in the record, we find that the evidence does not establish that she meets either of these criteria.

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 satisfy the regulation at 8 C.F.R. § 204.5(h)(3)(v), a petitioner must establish that not only have they made original contributions, but that those contributions have been of major significance in the field. 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. *See Visinscaia*, 4 F. Supp. 3d at 134-35.

Here, the Petitioner focuses on several academic and career achievements which she asserts meet the requirements of this criterion. One of these is her thesis for her candidate of sciences degree,

[redacted] which introduced economic proposals she asserts were implemented by local and regional governments in Ukraine. In support, she submitted a letter from a member of the [redacted] City Council which acknowledges the Petitioner's work with this body. The letter provides three examples of the privatization of specific businesses for which the Petitioner participated as an expert consultant in public meetings, and also notes that she played the same role regarding a city-wide policy on the rent of semi-basements. In addition, the letter states that her proposals also led the city council to form a system to monitor the use of communal property, and that "in general" she was actively involved in the reform of property relations at the city level. Although this evidence shows that she had some influence on aspects of economic practice and policy for a major regional city in Ukraine, it does not show that her proposals were widely implemented, or that other economic scholars or advisors were influenced by this work.

Additional evidence of the Petitioner's work with governmental bodies includes one of several reviews of her thesis that were written by "opponents" as part of the awarding of her degree. In particular, a review authored by [redacted] Head of the Regional Branch of the State Property Fund of Ukraine in [redacted] notes that the "practical importance of individual results of the study is confirmed by... implementation in practical activities at the regional level, in particular: Regional Branch of the State Property Fund in [redacted] Another review provides slightly more detail, indicating that her "practical recommendations on improving the mechanism of state regulation of the processes of property relations reform" were used by this body in implementing state policy. However, neither these reviews nor other evidence in the record provides detail on which proposals included in the Petitioner's thesis were implemented, or the nature of their overall impact on privatization reform policies in the region. The fact that some of her proposals were implemented at the regional level is not sufficient to demonstrate that this contribution was of major significance to the broader field of economics.

The Petitioner also refers to all eight of the reviews of her thesis which were conducted by "opponents" as part of the process in the award of her candidate of science degree as evidence of "acclaim from many experts in the field." We note that while all of these individuals are experts in economics, the reviews were done solely for the purpose of evaluating whether the Petitioner's thesis showed that she was deserving of the degree. Although the record does not include information about the standards for awarding the candidate of science degree, many of the reviews mention the novelty of her work and her maturity as an economist. For example, [redacted] of [redacted] University describes the dissertation as "a successful combination in the study of theoretical and methodological issues and applied ones," and concludes that "is an independent research on a topical topic, has a proper theoretical level, is noted for scientific novelty and practical value" and that the Petitioner therefore deserves her degree.¹ While this evidence clearly shows that this thesis was considered an original contribution and of sufficient practical value to justify the awarding of a degree, it does not demonstrate the dissertation's significance beyond the scope of the degree awarding process.

Additional evidence regarding the significance of the Petitioner's thesis, as well as her other published work in the field of economics, consists of references to her and her work in the publications of other economists. Some of these references simply list the Petitioner's name among others credited with

¹ All of the reviews of the Petitioner's thesis, and other reference letters in the record that were written on her behalf, were carefully reviewed, including those not explicitly mentioned in this decision.

publishing on a particular topic, such as a 2015 paper from *Scientific Bulletin of Polissia* which lists her among 10 “national scientists” who have written on property issues. Others refer to a specific paper published by her which was used to support their work. We note that several of these indicate that they were written by students, and it is not apparent that some were published in scholarly journals or presented at conferences. While a high rate of citations to a scholar’s published work, or widespread commentary from others in the field, may be probative of the significance of their contribution to the field,² here the Petitioner has not shown that either the quality or quantity of these references is indicative of contributions of major significance.

Another group of achievements highlighted by the Petitioner are those she made to the [redacted] [redacted] where she served as dean of the economics faculty from 2009 to 2012. The evidence shows that in this role and as an assistant professor, and in addition to administrative duties, she created program courses and study aids, established an internship program with local businesses, and served as an advisor for several graduate students. While the Director concluded, and we agree, that this evidence was sufficient to demonstrate her leading role for [redacted] (as will be further discussed below), it does not show that the impact of these achievements reached beyond [redacted] and its students and contributed to the broader field of economics.

The Petitioner also submitted evidence of her activities with the non-governmental organization (NGO) [redacted]. A letter from [redacted] describes the Petitioner’s creation of business plans for several businesses, and her participation in advocacy efforts on behalf of the group with the local and national governments. A second letter from [redacted] submitted in response to the Director’s request for evidence (RFE), adds that she consulted with local entrepreneurs and businesses on tax and other issues, and worked with other NGOs to promote entrepreneurship amongst women and young people in the area. The Petitioner’s aid to local businesses and efforts to promote entrepreneurship in the region is commendable, but these two letters do not show that her work with [redacted] made an impact other than to the businesses she directly helped. Notably, the record does not include evidence to demonstrate the wider impact of her advocacy on the actions or policies of regional or national governmental bodies.

In her appeal brief, the Petitioner refers to several of our non-precedent decisions, focusing on the evidence presented in those cases by petitioners seeking classification as noncitizens of extraordinary ability. These decisions were not published as precedents and therefore do not bind USCIS officers in future adjudications. *See* 8 C.F.R. § 103.3(c). Non-precedent decisions apply existing law and policy to the specific facts of the individual case, and may be distinguishable based on the evidence in the record of proceedings, the issues considered, and applicable law and policy. Here, the Petitioner points out that in *Matter of J-L-*, ID# 800261 (AAO Jan. 25, 2018) we considered reference letters as probative evidence of “the importance of the EB-1 Petitioner’s work,” and therefore that the opponent reviews of her thesis should be given greater consideration. But the portions of the letters quoted in *Matter of J-L-* describe contributions in detail that went beyond that petitioner’s employer and were implemented throughout the industry. As described above, the letters submitted on the Petitioner’s behalf describe her consultations to specific businesses, and only briefly mention the implementation of her proposals at the local and regional governmental level without providing detail or context. It is therefore insufficient to demonstrate that those contributions were of major significance in her field.

² 6 USCIS Policy Manual F.2(B)(2), <https://www.uscis.gov/policymanual>

After review of the evidence noted above, and other evidence in the record submitted in support of this criterion, we conclude that while the Petitioner has demonstrated original contributions to the field of economics, she has not established that any of her contributions were of major significance to the field. We therefore conclude that she does not meet this criterion.

Evidence that the alien has performed in a leading or critical role for organizations or establishments that have a distinguished reputation. 8 C.F.R. § 204.5(h)(3)(viii)

In order to meet the requirements of this criterion, a petitioner must establish that they played either a leading or critical role for an organization or establishment, and that that organization or establishment has or had a distinguished reputation. If a leading role, the evidence must establish that the noncitizen is (or was) a leader. A title, with appropriate matching duties, can help to establish if a role is (or was), in fact, leading. For a role to be considered critical, the evidence must establish that the noncitizen has contributed in a way that is of significant importance to the outcome of the organization or establishment's activities.

The Petitioner bases her claim to this criterion on her roles with [redacted] and [redacted]. Regarding her role as the dean of the economics faculty at [redacted] from 2009 to 2012, the Director concluded that while it was a leading role, the evidence was not sufficient to show that [redacted] has a distinguished reputation. On appeal, the Petitioner asserts that the evidence concerning certain graduates of [redacted] should have been considered despite its source, and that information from a website should have been considered despite the evidence's lack of information about its source.

While we agree with the Director's concerns regarding evidence submitted from Wikipedia, we conclude that the Petitioner has not shown that [redacted] has a distinguished reputation even when this evidence is considered. This evidence includes information about two graduates of [redacted] one who has been the mayor of [redacted] for 10 years and another who is an associate professor at [redacted] University. This evidence shows that two of the institution's graduates have had successful careers after beginning their post-secondary studies at [redacted] but does not show that it has a distinguished reputation among colleges and universities in Ukraine. Other evidence includes an article describing [redacted]'s history, facilities and educational, but as the Director noted in his decision, no information was provided about the source of this material, such as a website address, which would allow for verification of its content. On appeal, the Petitioner identifies its source as the website for [redacted] a name which is included in some of the images accompanying the article, but provides no further information about this entity. More importantly, neither this article nor other information in the record provided from other websites suggests that [redacted] has a distinguished reputation. None of the evidence indicates that [redacted] is widely recognized as a prestigious institution or is highly ranked among Ukrainian and European universities. The [redacted] article concludes only that it "is an institution that provides a thorough and solid knowledge to its students," a phrase which could be used to describe any institution of higher learning. The Wikipedia information indicates that [redacted] received a nomination for "Temple of Science" designation in 2005, but very little information is provided about this nomination or its meaning. Upon review of the totality of this evidence, we conclude that it does not establish that [redacted] has a distinguished reputation.

Turning to the Petitioner's role for [redacted] the Director concluded that it was neither leading nor critical, and that the evidence did not show that it has a distinguished reputation. As noted above, the evidence

of her role for this NGO includes two letters from [redacted] whom a news article names as the head of the organization. In her first letter, she names several businesses for which the Petitioner provided business plans, and also states that the Petitioner was “a participant in all mass events to defend the interests of entrepreneurs before various bodies of state power and local self-government.” In the second letter, [redacted] again notes the Petitioner’s participation in “mass events” to advocate for entrepreneurs, and her consultations with entrepreneurs on tax and other business issues. On appeal, the Petitioner asserts that these letters show that she was an active member of [redacted], and that the organization “has implemented Petitioner’s innovative ideas for helping its members to develop businesses.” We agree that the evidence shows that she was an active member of the organization, and [redacted]’s first letter describes her as a co-author of an appeal to the Ukrainian prime minister regarding labor legislation and an idea to create something called the [redacted]. However, the record does not include sufficient information about the outcome of these projects and how they impacted the mission, operations or standing of [redacted] to show that the Petitioner’s role was critical to the organization’s activities. The letters indicate that [redacted] has undertaken many such “mass events,” and does not show that the Petitioner’s participation in the two specific projects described or in other projects affected the organization’s activities to the extent that her role was critical.

We further note that while the Director also concluded that the Petitioner had not shown that [redacted] has a distinguished reputation, this requirement is not addressed on appeal. The RFE response included a single article posted on the website [redacted] on [redacted] 2018 which interviews [redacted] about the organization’s appeal to a committee of the Ukrainian legislature regarding issues of entrepreneurship, but the article simply describes [redacted]’s advocacy with other entrepreneurial organizations and does not distinguish it from these other NGOs. As such, we agree with the Director’s conclusion that the evidence does not establish that [redacted] has a distinguished reputation.

III. CONCLUSION

The Petitioner has not submitted the required initial evidence of either a one-time achievement or documents that meet at least three of the ten criteria. As a result, 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 that 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).

For the reasons discussed above, the Petitioner has not demonstrated his 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.