



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

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

MATTER OF S-Y-P-A-, INC.

DATE: MAR. 1, 2016

APPEAL OF VERMONT SERVICE CENTER DECISION

PETITION: FORM I-129, PETITION FOR A NONIMMIGRANT WORKER

The Petitioner, a classical Chinese performing arts company, seeks to classify the Beneficiary as a foreign national of extraordinary ability in the arts. *See* Immigration and Nationality Act (the Act) § 101(a)(15)(O)(i), 8 U.S.C. § 1101(a)(15)(O)(i). The Director, Vermont Service Center, denied the petition. The matter is now before us on appeal. The appeal will be dismissed.

The Petitioner requests that the Beneficiary be granted O-1 classification so that he may work as a principal/solo French horn player for a period of three years. The Director denied the petition, concluding that the exhibits did not satisfy the evidentiary requirements applicable to foreign nationals of extraordinary ability in the arts, pursuant to 8 C.F.R. § 214.2(o)(3)(iv)(A)(a significant national or international prize or award) or (B)(at least three of six possible forms of documentation). On appeal, the Petitioner requests approval of the petition and submits a brief. For the reasons discussed below, we agree that the Petitioner did not establish the Beneficiary's eligibility as an individual with extraordinary ability in the arts.

I. PERTINENT LAW AND REGULATIONS

Section 101(a)(15)(O)(i) of the Act provides classification to a qualified foreign national 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. The regulation at 8 C.F.R. § 214.2(o)(3)(ii) states, in pertinent part:

Extraordinary ability in the field of arts means distinction. Distinction means 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.

The regulation at 8 C.F.R. § 214.2(o)(3)(iv) sets forth a multi-part analysis. First, a petitioner can demonstrate the beneficiary's recognition in the field through documentation that the beneficiary has been nominated for, or is the recipient of, significant national or international awards or prizes in the particular field such as an Academy Award, an Emmy, a Grammy, or a Director's Guild Award. 8 C.F.R. § 214.2(o)(3)(iv)(A). If a petitioner does not provide this information, then that petitioner

Matter of S-Y-P-A-, Inc.

must satisfy at least three of the six categories of evidence listed at 8 C.F.R. § 214.2(o)(3)(iv)(B) (1)-(6). If a petitioner shows that certain criteria in paragraph (o)(3)(iv) of this section do not readily apply to the beneficiary's occupation, that petitioner may submit comparable evidence in order to establish the beneficiary's eligibility. 8 C.F.R. § 214.2(o)(3)(iv)(C).

The satisfaction of at least three criteria does not, in and of itself, establish eligibility for O-1 classification. 59 Fed. Reg. 41818, 41820 (Aug. 15, 1994). In addition, we have held:

[T]ruth is to be determined not by the quantity of evidence alone but by its quality. Thus, in adjudicating the application pursuant to the preponderance of the evidence standard, the Director must examine 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.

Matter of Chawathe, 25 I&N Dec. 369, 376 (AAO 2010).

The regulation at 8 C.F.R. § 214.2(o)(3)(ii) defines, in pertinent part:

Arts includes any field of creative activity or endeavor such as, but not limited to, fine arts, visual arts, culinary arts, and performing arts.

Additionally, the regulation at 8 C.F.R. § 214.2(o)(2)(iii) provides:

The evidence submitted with an O petition shall conform to the following:

- (A) Affidavits, contracts, awards, and similar documentation must reflect the nature of the alien's achievement and be executed by an officer or responsible person employed by the institution, firm, establishment, or organization where the work was performed.
- (B) Affidavits written by present or former employers or recognized experts certifying to the recognition and extraordinary ability . . . shall specifically describe the alien's recognition and ability or achievement in factual terms and set forth the expertise of the affiant and the manner in which the affiant acquired such information.

Further, the regulation at 8 C.F.R. § 214.2(o)(2)(ii) provides that petitions for O foreign nationals shall be accompanied by the following:

- (A) The evidence specified in the particular section for the classification;

(b)(6)

Matter of S-Y-P-A-, Inc.

- (B) Copies of any written contracts between the petitioner and the alien beneficiary or, if there is no written contract, a summary of the terms of the oral agreement under which the alien will be employed;
- (C) An explanation of the nature of the events or activities, the beginning and end dates for the events or activities, and a copy of any itinerary for the events or activities; and
- (D) A written advisory opinion(s) from the appropriate consulting entity or entities.

II. FACTUAL AND PROCEDURAL HISTORY

The Petitioner filed the Form I-129, Petition for a Nonimmigrant Worker, and supporting documentation on February 5, 2015. The Director issued a request for additional evidence (RFE) on February 12, 2015, to which the Petitioner replied. The Petitioner submits a brief on appeal and additional exhibits. We have considered the record in its entirety in reaching this decision.

According to the record, the Beneficiary obtained a graduate degree as a French horn player in 1994 at what is now called the ██████████ in ██████████, Bulgaria, and has been playing the French horn with different orchestras in Bulgaria since 1999. On the Form I-129, and the O and P Classifications Supplement, the Petitioner indicated that it is a classical performing arts company and that the event will involve the “[r]evival of traditional and classical arts through newly choreographed performances of classical Chinese dance and newly composed and classical music with [the Petitioner’s] own live orchestra.” The Petitioner explained that the Beneficiary will “[p]erform as a Musician in the specialized instrument and/or position in one of [the Petitioner’s] orchestra[s] and the symphony orchestra in live performances, concerts, and/or recordings and to perform at world class theaters internationally.” In its initial letter dated February 3, 2015, the Petitioner described the Beneficiary as “an established and distinguished French Horn performer.”

The record contains a copy of the Petitioner’s employment agreement with the Beneficiary, electronically signed by him on January 23, 2015, reflecting that the Beneficiary will perform as a principal/solo horn player at the Petitioner’s performances and will receive “the monthly sum of **\$3,300, plus full Room and Board.**” (Emphasis in original.) The record contains an itinerary for the period between February 2015 and February 2018,¹ listing performance tour dates with the Petitioner’s orchestra at various cities across the United States and events at the Petitioner’s worksite, to include practicing new music compositions and rehearsing with the Petitioner’s dance performers.

¹ The Form I-129 listed the dates of intended employment as ending February 5, 2018. The last three events on the itinerary list the following dates: “5/31/17-12/20/17,” “12/21/17-5/30/18,” and “6/1/18-2/05/18.”

(b)(6)

Matter of S-Y-P-A-, Inc.

III. ANALYSIS

A. Evidentiary Criteria

The sole issue to be addressed is whether the Petitioner documented that the Beneficiary satisfies the evidentiary criterion at 8 C.F.R. § 214.2(o)(3)(iv)(A), or at least three of the six criteria set forth at 8 C.F.R. § 214.2(o)(3)(iv)(B). In denying the petition, the Director determined that the evidence submitted does not satisfy any of these criteria. After careful review, the record does not establish that the Petitioner has overcome the grounds for denial.

If the Petitioner establishes through the submission of documentation that the Beneficiary has been nominated for or has been the recipient of, significant national or international awards or prizes in the particular field pursuant to 8 C.F.R. § 214.2(o)(3)(iv)(A), then it will have provided the requisite initial evidence for O-1 classification. While the Petitioner has included copies of several award certificates the Beneficiary received, the Petitioner has neither maintained nor offered information to confirm that any of these awards are comparable to the types of significant national or international awards or prizes listed as examples in the regulation at 8 C.F.R. § 214.2(o)(3)(iv)(A), namely an Academy Award, an Emmy, a Grammy, or a Director's Guild award. The Director determined that the Petitioner did not satisfy this criterion, and the Petitioner raises no objection to this finding on appeal. Accordingly, the Petitioner has not shown that the Beneficiary has received or been nominated for a significant national or international prize or award that would qualify him for O-1 status under 8 C.F.R. § 214.2(o)(3)(iv)(A). Therefore, the Petitioner must satisfy at least three of the six evidentiary criteria set forth at 8 C.F.R. § 214.2(o)(3)(iv)(B). We will address these criteria below.²

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

The Director determined that the Petitioner did not satisfy the criterion at 8 C.F.R. § 214.2(o)(3)(iv)(B)(1). Specifically, the Director concluded that while the Beneficiary had performed with organizations that enjoyed a distinguished reputation, the Petitioner did not demonstrate that the Beneficiary had performed as a lead or starring participant in any productions or events that enjoyed a distinguished reputation. On appeal, the Petitioner maintains that the Director did not properly evaluate the submitted evidence.

At the time of filing and in response to the RFE, the Petitioner indicated that the Beneficiary meets this criterion based on his past performances with the classical music groups the [REDACTED] the [REDACTED], the [REDACTED] and the [REDACTED]. The Petitioner stated that the Beneficiary has performed the classics of symphony, opera and ballet,

² The Petitioner does not assert that it satisfies the regulatory categories of evidence not discussed in this decision.

(b)(6)

Matter of S-Y-P-A-, Inc.

programs of contemporary Bulgarian and world authors, and has participated in a number of recordings for foreign companies and numerous Bulgarian recording companies.

The Petitioner's initial submission contained a portion of a program from a [REDACTED] 2011, performance of the [REDACTED] indicating that the Beneficiary performed at that concert, but not as First Horn. The filing also contained an advertisement for a [REDACTED] 2014 performance of [REDACTED] by the [REDACTED] including a listing of multiple awards won by the production, and a portion of a program for that performance listing the Beneficiary as a member of the horn section of the [REDACTED], but not as First Horn. The Petitioner also provided [REDACTED] video links for several of the Beneficiary's past performances. The video links are accompanied by photographs labelled as showing the Beneficiary performing as First Horn in two concerts with the [REDACTED] as Guest Horn with the [REDACTED] in a [REDACTED] concert, and as Guest Horn with the [REDACTED] in a [REDACTED] program. The photographs, however, do not establish the Beneficiary's leading role in those performances.

As corroboration of the Beneficiary's role as a lead or starring participant in productions or events, the Petitioner initially offered a letter from [REDACTED] of [REDACTED] affirming that he has worked with the Beneficiary for more than 15 years in three orchestras, the [REDACTED], the [REDACTED] and the [REDACTED]. [REDACTED] asserted that with these orchestras the Beneficiary has performed, "dozens of recordings at the [REDACTED] and Television – [REDACTED] [The Beneficiary] always played a significant role in these dozens of musical works – mostly as the first horn." In response to the RFE, the Petitioner provided a letter from [REDACTED] a music producer with the [REDACTED], stating that between 2010 and 2014 the Beneficiary performed with the [REDACTED] "as a Principal (Solo) Horn Player" and played "leading French horns" in recordings of the symphonies of [REDACTED] issued on compact disc. The plain language of the regulation, however, mandates that the evidence supporting this criterion consist of critical reviews, advertisements, publicity releases, publications, contracts, or endorsements.³ The Petitioner also submitted advertisements for two of those CDs from the website [REDACTED] where they are available for purchase. The advertisements mention [REDACTED] by name, but not the Beneficiary.

Upon review, while the Petitioner has established that the performance of [REDACTED] by the [REDACTED] can be considered an event with a distinguished reputation, the published materials do not demonstrate that the Beneficiary was a leading or starring participant in that event. The Beneficiary performed as a member of the orchestra that accompanied the opera singers. From the submitted items it appears that the lead or starring participants in this event were two or three casts of opera performers and the conductor, also mentioned by name. There is no evidence that the Beneficiary was featured in any way, or that he received any media recognition for his appearance. We cannot conclude that every musician who took part in the production in any capacity during the performance of the opera performed services as a "lead or starring participant" within the meaning

³ Testimonials are listed as initial evidence under the lead, starring, or critical role for an organization criterion at 8 C.F.R. § 214.2(o)(iv)(B)(3), and we will consider the letters below in that context.

(b)(6)

Matter of S-Y-P-A-, Inc.

of this criterion. The Petitioner has not offered evidence that would distinguish the Beneficiary from any other supporting musician who performed at the event.

The Petitioner has not submitted the required evidence with respect to the Beneficiary's remaining past performances with the above classical musical groups that would establish either the Beneficiary's leading role in these productions or the distinguished reputation of the events or productions themselves. The Petitioner appears to be relying on the reputation of the classical music groups in lieu of providing specific documentation relating to the concerts and recordings in which the Beneficiary participated. Going on record without corroboration is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm'r 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg'l Comm'r 1972)).

Furthermore, this regulatory criterion also requires the Petitioner to demonstrate that the Beneficiary will perform services as a lead or starring participant in productions or events which have a distinguished reputation through critical reviews, advertisements, publicity releases, publications, contracts, or endorsements. The Petitioner included an itinerary listing over 40 anticipated performance tour dates for the Beneficiary for the requested three-year period of employment. As noted above, the Beneficiary will perform as a member of the Petitioner's orchestra accompanying the performance of its classical Chinese dance group. Also filed with the petition were excerpts from favorable critical reviews of its performances from several publications published on its website, and links to news coverage of several of its recent performance tours by [REDACTED]

[REDACTED] While the Petitioner has documented that the Petitioner's upcoming performances are considered to be productions or events with a distinguished reputation, the Petitioner has not supplied evidence confirming that the Beneficiary will provide services as a lead or starring participant in such events. From the submitted materials it is apparent that the lead or starring participants in these events will be the dancers. Based on the foregoing discussion, we concur with the Director's conclusion that the Petitioner has not established that the Beneficiary satisfies the plain language of the regulatory criterion at 8 C.F.R. § 214.2(o)(3)(iv)(B)(1). In light of the above, the items do not meet the plain language of the regulatory criterion at 8 C.F.R. § 214.2(o)(3)(iv)(B)(1).

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.

The Director determined that the Petitioner did not meet the evidentiary requirements of this criterion. On appeal, the Petitioner reasserts that the evidence confirms the Beneficiary's eligibility based on his past performances with the [REDACTED] and the [REDACTED]. In general, a leading role is apparent from the role itself and its position within the organizational hierarchy, and a critical role is one in which the foreign national positively impacted the success or standing of the organization or establishment.

(b)(6)

Matter of S-Y-P-A-, Inc.

The Petitioner's initial submission contained a certificate of employment from [REDACTED] Head of Human Resources of [REDACTED], verifying that the Beneficiary has been employed since 2011 as a French horn player who is a "Soloist-Orchestra Member," with the [REDACTED]. As noted above, [REDACTED] attested that the Beneficiary performed as the solo horn player for this orchestra on several recordings. The Petitioner also provided a letter from [REDACTED] Head Conductor of the [REDACTED] who confirmed that the Beneficiary has participated in several [REDACTED] classical and contemporary music recordings, numerous concerts, and other recordings for the [REDACTED]. [REDACTED] affirmed that the Beneficiary is a regular participant in the concerts of the [REDACTED] which is composed of "the [REDACTED]". A brochure listing the members of the [REDACTED] however, indicated that the Beneficiary was a member, but not the Principal, of the horn section of the orchestra. The Petitioner's initial evidence also included the above-referenced video links from the website [REDACTED] with several accompanying pictures, labelled as showing the Beneficiary performing as First Horn in two concerts with the [REDACTED] although the photographs, themselves, do not establish that the Beneficiary's role was leading or starring. Further, accompanying the petition was a letter from [REDACTED] a professor at [REDACTED] discussed more fully below under the regulatory criterion at 8 C.F.R. § 214.2(o)(3)(iv)(B)(5). The letter is accompanied by a brief biography of [REDACTED] specifying that he has been first French horn of the [REDACTED] since [REDACTED]. Upon review, these items reveal that [REDACTED] and not the Beneficiary, was and is the first French horn of the [REDACTED] and, therefore, the Petitioner has not verified that the Beneficiary has performed in a lead, starring, or critical role for the [REDACTED].

The Petitioner's initial evidence further included a certificate of employment from [REDACTED] President of [REDACTED] confirming that the Beneficiary was employed with the [REDACTED] of [REDACTED] as an "Artist-Orchestra Member-FRENCH HORN PLAYER" between January 1999 and April 2009. In response to the RFE, the Petitioner submitted additional correspondence from [REDACTED] clarifying that, despite the implication from the [REDACTED] name that it is a student group, all members of the [REDACTED] are, in fact, professional musicians employed full time, that the Beneficiary, "as a Soloist-Leader of the Brass Section of the Orchestra, has shown excellent leadership qualities," and that the Beneficiary's performances, "as a Principal (Solo) Horn demonstrated [to his] younger followers the proper professional attitude to musical performances and participation in an orchestra."

In response to the RFE and on appeal, the Petitioner submitted articles about the composition of the modern orchestra and the job description of the terms "first chair," "principal," "principal player," and "principal horn" in the instrumental section of an orchestra, downloaded from The [REDACTED] *Wikipedia*, [REDACTED] and [REDACTED].

⁴ There are no assurances about the reliability of the content from *Wikipedia*, which is an open, user-edited Internet site. Therefore, we will not assign weight to information from *Wikipedia*. See *Laamilem Badasa v. Michael Mukasey*, 540 F.3d 909 (8th Cir. 2008); see also the General Disclaimer at <https://en.wikipedia.org/wiki/Wikipedia:Disclaimers>, accessed on February 26, 2016, and copy incorporated into the record of proceeding noting that the content is subject to the following general disclaimer:

(b)(6)

Matter of S-Y-P-A-, Inc.

These sources indicate that the modern orchestra will have between four and eight French horns, and that the first chair of an instrumental section is generally responsible for leading the group and playing orchestral solos. The letter from [REDACTED] stated that the Beneficiary performed with the [REDACTED] “as Soloist-Leader of the Brass Section of the Orchestra” and “as a Principal (Solo) Horn.” We find that the Beneficiary’s role as Principal Horn equates to a leading role for the [REDACTED].

It is also the Petitioner’s burden to demonstrate that the organizations or establishments referenced under this criterion enjoy a distinguished reputation. The Petitioner, however, has not submitted objective documentary evidence showing that the [REDACTED] has a distinguished reputation. The record contains a biography of the [REDACTED] published on the website [REDACTED] describing that orchestra as “a high-professional ensemble for concert activity” with weekly performances at the [REDACTED], and as having made a number of acclaimed recordings with the [REDACTED] and on national television. That website lists the [REDACTED] on its roster of ensembles for which it provides management services. While these materials corroborate the high opinion of the orchestra’s management company, they do not confirm that the [REDACTED] has a distinguished reputation in the field. The Petitioner did not offer reviews or media coverage of the [REDACTED]. The record also contains information relating to the reputation of [REDACTED] as a whole, but the Petitioner only established the Beneficiary’s leading role for the [REDACTED] rather than the full academy.

Furthermore, this regulatory criterion also requires the Petitioner to submit evidence that the Beneficiary will perform services as a lead or starring participant for organizations and establishments that have a distinguished reputation with articles in newspapers, trade journals, publications, or testimonials. As evident from the news coverage referenced above, the Petitioner is considered to be an organization with a distinguished reputation. At issue, then, is whether the Beneficiary will perform in a lead, starring, or critical role for the Petitioner. As noted above, the Beneficiary will perform as a member of the Petitioner’s orchestra accompanying the performance of its classical Chinese dance group. As the Petitioner notes on appeal, the petition and the agreement (which only the Beneficiary signed) confirmed that the Beneficiary will be employed as a “Principal/Solo Horn” player. The Petitioner did not submit a letter from its organization explaining the nature of the Beneficiary’s proposed role and the submitted exhibits do not describe how he will contribute to the Petitioning company as a whole, or how his position fits within the overall hierarchy of the

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That is not to say that you will not find valuable and accurate information in Wikipedia; much of the time you will. However, **Wikipedia cannot guarantee the validity of the information found here.** The content of any given article may recently have been changed, vandalized or altered by someone whose opinion does not correspond with the state of knowledge in the relevant fields. Note that most other encyclopedias and reference works also have disclaimers.

(b)(6)

Matter of S-Y-P-A-, Inc.

company. The Petitioner has offered no additional material on appeal that would elucidate where the Beneficiary's proposed position falls in the overall hierarchy of the organization or his proposed impact on the entity. Based on the foregoing, the Petitioner has not satisfied the plain language of the regulation at 8 C.F.R. § 214.2(o)(3)(iv)(B)(3).

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.

As stated previously, the regulation at 8 C.F.R. § 214.2(o)(2)(iii)(B) provides that affidavits written by present or former employers or recognized experts certifying to the recognition and extraordinary ability shall specifically describe the foreign national's recognition and ability or achievement in factual terms and set forth the expertise of the affiant and the manner in which the affiant acquired such information. The Petitioner offered four letters of recommendation. The Director determined that the record does not establish that the Beneficiary meets this criterion. On appeal, the Petitioner asserts that the Director did not properly review all of the submitted evidence and characterizes the Beneficiary as a musician whose "academic trainings, credentials, experience, and skills have clearly reached the level of 'distinction.'"

The Petitioner's initial evidence included the letter from [REDACTED] who confirmed that the Beneficiary has participated in several of [REDACTED] classical and contemporary music recordings, numerous concerts, and other recordings for [REDACTED]. He also explained that the Beneficiary is a regular participant in the [REDACTED] which he asserted is composed of "the most eminent Bulgarian instrumentalists." [REDACTED] described the Beneficiary as "a proven professional with clearly expressed instrumentalist qualities" with a "characteristic instrumental sound," who is an excellent and desirable member of any orchestra.

The Petitioner also initially submitted evidence of the Beneficiary's receipt of the following awards:

1. [REDACTED] First Academic Competition, Brass and Percussion Instruments, French Horn, [REDACTED]
2. [REDACTED] First Academic Competition, Brass and Percussion Instruments, [REDACTED] for the Best Performance of a Piece by a Czech Composer [REDACTED]

Upon review, the competition for these awards was by definition not open to all French horn players, but to a very restricted segment of French horn players — students at a single academy. The Petitioner has not shown that these awards were open to experienced professionals already working in the field rather than limited to students. While these factors are not determinative, it remains the Petitioner's burden to establish the Beneficiary's significant recognition for achievements in the field.

(b)(6)

Matter of S-Y-P-A-, Inc.

The scope and significance of those competitions in the field has not been established through any corroborating evidence. The letter from ██████ noted that the Beneficiary was awarded first prize in the academy's ██████ competition, referring to the competition as "one of the most important cultural events at the Music Academy," in which "[o]nly the most important undergraduates take part." The Petitioner's response to the RFE contained a letter from ██████ the Vice Dean of the Instrumental Faculty at ██████ and a member of the jury which awarded the Beneficiary first prize, describing the manner in which the winners of the competition were evaluated and asserting that "[t]his competition was attended by the best music undergraduates in Bulgaria at that time." The Petitioner further provided a letter from ██████ Director of the ██████ which supported and sponsored the ██████ competition, confirming that the Beneficiary won first prize for French horn, and stating that "the academic competition at ██████ [is] not only an event of high repute, but also a musical forum, requiring solid skills and high instrumental and technical level of the participants." The letters of ██████ and ██████, while establishing that the competition may be an important cultural event among undergraduate students in Bulgaria, do not supply sufficient context in which to evaluate how those prizes rise to the level of a significant recognition for achievements in the field. Such information could include the history and scope of the event itself, the number of entries in the Beneficiary's category in the year he won, any publicity or monetary award the Beneficiary received as a result of winning first prize, verification that the winner of this event receives "significant recognition," beyond a certificate, or publicity of the event beyond the competition's sponsor, the ██████ venue, and participants.

In response to the RFE, the Petitioner also presented a certificate indicating that in ██████ the Beneficiary completed a two-day "French Horn Master's Class with ██████ of the United Kingdom," offered as part of the ██████ in ██████. Although the Petitioner provided general information about ██████ reputation as a French horn player, the record does not contain any evidence establishing that the completion of a master class with ██████ constitutes significant recognition for achievements from organizations in the field.

Upon review, the record supports the Director's determination that the evidence does not satisfy the requirements of the criterion at 8 C.F.R. § 214.2(o)(3)(iv)(B)(5). The reference letters all praise the Beneficiary's talent and abilities. Such letters can provide useful information about a foreign national's qualifications or help in assigning weight to certain documents, and the letters in this matter did address specific achievements of the Beneficiary, such as his participation in the above-referenced competitions. They do not, however, explain how his achievements to date have received significant recognition from organizations, critics, government agencies, or other recognized experts in the field for those achievements. Overall, while the Beneficiary has earned the respect of his colleagues in the field of music, the exhibits are insufficient to demonstrate that he has received significant recognition for achievements in the field. Based on the foregoing, the Petitioner has not submitted evidence that satisfies the criterion at 8 C.F.R. § 214.2(o)(3)(iv)(B)(5).

Finally, the Petitioner's appellate brief maintains that the Director appeared to be "applying a much higher standard of proof, beyond the required 'preponderance of evidence' standard when reviewing

the petition and evidence.” The record does not support the Petitioner’s assertion that the Director applied an elevated standard beyond that which is required by most administrative immigration cases, the preponderance standard of proof. As previously stated, this standard is outlined in *Chawathe*, which indicated that in evaluating the record, USCIS must “examine 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.” 25 I&N Dec. at 376. USCIS determines the truth not by the quantity of submissions alone but by its quality. *Id.* Using this standard, we concur with the Director’s ultimate conclusion that the exhibits do not establish the Beneficiary’s eligibility.

IV. CONCLUSION

The Beneficiary has not been nominated for or received a qualifying award under 8 C.F.R. § 214.2(o)(3)(iv)(A) and the record does not establish that the Beneficiary meets at least three criteria at 8 C.F.R. § 214.2(o)(3)(iv)(B). Consequently, the Petitioner has not shown that the Beneficiary is eligible for classification as a foreign national with extraordinary ability in the arts.

The appeal will be dismissed for the above stated reasons, with each considered as an independent and alternate basis for the decision. In visa petition proceedings, it is the Petitioner’s burden to establish eligibility for the immigration benefit sought. § 291 of the Act, 8 U.S.C. § 1361; *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). Here, the Petitioner has not met that burden.

ORDER: The appeal is dismissed.

Cite as *Matter of S-Y-P-A-, Inc.*, ID# 15674 (AAO Mar. 1, 2016)