



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

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

In Re: 23376211

Date: FEB. 01, 2023

Appeal of Texas Service Center Decision

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

The Petitioner, a fashion designer, seeks classification as an individual of extraordinary ability. 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 the classification by establishing the Petitioner's receipt of a major, internationally recognized award, or by meeting three of the ten evidentiary criteria at 8 C.F.R. § 204.5(h)(3). The matter is now before us on appeal. 8 C.F.R. § 103.3.

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). We review the questions in this matter de novo. *Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon de novo review, we will dismiss the appeal.

## I. LAW

An individual is eligible for the extraordinary ability classification if they have extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and their achievements have been recognized in the field through extensive documentation; they seek to enter the United States to continue work in the area of extraordinary ability; and their entry into the United States will substantially benefit prospectively the United States. Section 203(b)(1)(A) of the Act.

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 may demonstrate international recognition of their achievements in the field through a one-time achievement (that is, a major, internationally recognized award). Absent such an achievement, a petitioner must provide sufficient qualifying documentation demonstrating that they meet at least three of the ten criteria listed at 8 C.F.R. § 204.5(h)(3)(i)-(x).

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 [ ] designer who has recently worked and exhibited her collections in [ ] Florida. She has submitted evidence of her work both in Venezuela and in the United States. The Petitioner intends to continue her collaboration with businesses in the United States and plans to open a store in the [ ] area.

Because the Petitioner has not indicated or shown that she 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 determined that the Petitioner met two of the five criteria she claimed to have satisfied: participation as a judge of others’ work in the field of design and display of her work at artistic exhibitions or showcases.<sup>1</sup> The Director concluded, however, that the Petitioner did not establish that she met criteria at 8 C.F.R. § 204.5(h)(3)(i), (iii), and (viii). On appeal, the Petitioner asserts that she meets these additional criteria.

As more fully discussed below, we agree with the Director’s decision. The Petitioner has not met her burden of proof to establish eligibility under each criterion.

*Documentation of the individual’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).

In order to fulfill this criterion, the Petitioner must demonstrate that she received prizes or awards that are nationally or internationally recognized for excellence in her field of endeavor.<sup>2</sup> 8 C.F.R. § 204.5(h)(3)(i). The Petitioner submitted a copy and translation of a certificate for her Mara de Oro Award as a [ ] Fashion Designer with International Projection,” which was issued by the Mara de Oro Foundation of Venezuela on [ ] 2018. The record includes letters from the president of the Mara de Oro Foundation of Venezuela discussing the qualifications necessary to receive an award and the history of the Mara de Oro Foundation of Venezuela. It also contains several online articles regarding the Mara de Oro awards. In a request for evidence (RFE), the Director requested documentation to demonstrate that the Petitioner’s award was recognized beyond the awarding entity. The Petitioner’s response highlighted three previously offered online submissions: two from *Panorama* and one from *El Universal*.

<sup>1</sup> See 8 C.F.R. § 204.5(h)(3)(iv), (vii).

<sup>2</sup> 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 awards or prizes; the national or international significance of the awards or prizes in the field; and the number of awardees or prize recipients, as well as any limitations on competitors. *See generally* 6 USCIS Policy Manual F.2 (Appendix), <https://www.uscis.gov/policy-manual/volume-6-part-f-chapter-2>.

In his decision, the Director recognized that the Petitioner was the recipient of the Mara de Oro Award; however, he concluded that the award is not a nationally or internationally recognized award in her field of endeavor. The Director determined that awards of this nature that are recognized nationally or internationally “usually receive a certain level of media coverage,” and that the record did not sufficiently document the Petitioner’s receipt of the award in 2018 in either international or national media. On appeal, the Petitioner refers to several articles previously submitted and asserts that the Director did not address the evidence provided or explain why it was insufficient to show that the award is recognized nationally or internationally.

Upon review, we agree with the Director that the Petitioner has not established that the Mara de Oro award is a nationally or internationally recognized award in her field of endeavor. The Petitioner did not submit evidence showing that Mara de Oro award winners receive a level of media coverage that is commensurate with a nationally or internationally recognized award in the arts. The limited evidence of the award’s media coverage is insufficient to establish the level of national or international recognition associated with the award. Rather, several of the submitted articles are brief announcements of prior awards ceremonies and do not mention the Petitioner or the 2018 awards ceremony. One submission, “[REDACTED]” in *Panorama*, mentions the Petitioner’s receipt of the award; it includes a picture of the Petitioner with her award, with a two-sentence article stating that she was recognized with the “Mara de Oro prize.” However, it does not establish the level of national or international recognition associated with the award. Further, the online articles and letters from the organization’s president do not provide clear or consistent information regarding the award categories, the number of annual awards given, the criteria used to grant awards, or whether all of the awards are deemed national or international in scope.

Therefore, while the Petitioner documented her receipt of the Mara de Oro award as a [REDACTED] Fashion Designer with International Projection,” the supporting evidence is insufficient to demonstrate that this is a nationally or internationally recognized prize or award in her field of endeavor. Thus, the Petitioner has not met her burden to establish that she meets the requirements of 8 C.F.R. § 204.5(h)(3)(i).

*Published material about the individual in professional or major trade publications or other major media, relating to the individual’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).*

To meet this criterion, the published material must be about the Petitioner and related to her specific work in the field for which classification is sought; it must include the title, date, and author of the material and any necessary translation; and the publication must qualify as a professional publication, major trade publication, or major media publication. 8 C.F.R. § 204.5(h)(3)(iii). With the petition, the Petitioner submitted online articles from various websites and publications, together with viewership or circulation information. In his RFE, the Director stated that the majority of the evidence “reflected blurbs about the petitioner’s exhibition at the [REDACTED] Hotel or her receipt of the Mara de Oro prize, but no articles which told a story about her work.” In response to the RFE, the Petitioner asserted that the articles submitted with the petition meet the plain language of the regulation because they “concern [the Petitioner] in connection to her work in the field.”

In his decision, the Director indicated that he reviewed all of the articles submitted and found that none of the articles discussing the Petitioner and her work met plain language requirements of the

regulation. Specifically, he concluded that the published material is not “about” the Petitioner related to her specific work in the field for which classification is sought, and that the website visitation and ranking data from SimilarWeb.com did not establish that the cited sources qualify as professional or major trade publications or other major media.

On appeal, the Petitioner states that two of the articles submitted meet the plain language of the regulation: “[redacted]” written by [redacted] and published on [redacted] 2017, in *Panorama*; and “[redacted]” written by [redacted] and published on [redacted] 2018, in *Panorama*. Specifically, she asserts that these articles were published in major media<sup>3</sup> and are about her relating to her work in the field of the arts.

As to the discussion of whether *Panorama* qualifies as “major media,” the Director found that the website visitation and ranking data for panorama.com.ve from SimilarWeb.com did not establish that it qualifies as major media. Upon review, we agree with the Director’s assessment of the evidence. Evidence of published material in major media publications about the Petitioner should establish that the circulation (online or in print) or viewership is high compared to other statistics and identify the intended audience. *See generally 6 USCIS Policy Manual, supra*, at F.2 (Appendix). On appeal, the Petitioner asserts that panorama.com.ve is ranked #87 of “all other” news and media sources in Venezuela and that the ranking data from SimilarWeb.com serves as comparative and reliable evidence supporting its designation as “major media.”

The website statistics from SimilarWeb.com indicate that panorama.com.ve ranks 20,733 globally and 87 in Venezuela, and that approximately 80% of the website’s traffic comes from Venezuela; it also shows the average amount of time viewers spend on the website. However, the record does not contextualize those statistics, indicate their significance, or elaborate on how that information may establish that the website is the type of major media contemplated by 8 C.F.R. § 204.5(h)(3)(iii). The submitted materials do not meet the Petitioner’s burden to show that panorama.com.ve qualifies as major media. *See Matter of Chawathe*, 25 I&N Dec. at 375-76.<sup>4</sup>

As to the discussion of whether the published material is about the Petitioner related to her specific work in the field for which classification is sought, we note that none of the submitted articles include a substantial discussion of the Petitioner’s work in the field. *See generally 6 USCIS Policy Manual, supra*, at F.2 (Appendix). While the two articles referenced on appeal mention the Petitioner, neither article includes a substantial discussion about her relating to her work as a fashion designer. Instead, [redacted] is a brief, two-paragraph article with pictures relating to one of her [redacted] collections. The article includes quotes from the Petitioner, but it does not include a substantial or material discussion about her relating to her work. Similarly, “[redacted]” is a two-sentence article, including a quote from the Petitioner, with a picture relating to her acceptance of the Mara de Oro award. The article does not include a substantial or material discussion about her relating to her work as a fashion designer.

In sum, the Petitioner has not met her burden of proof to demonstrate her eligibility under 8 C.F.R. § 204.5(h)(3)(iii).

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<sup>3</sup> The Petitioner does not claim that they were published in professional or trade publications.

<sup>4</sup> The article [redacted] does not indicate that it was posted on panorama.com.ve.

*Evidence that the individual 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).*

To meet this criterion, the Petitioner must establish that she has performed in a leading or critical role for an organization or establishment that has a distinguished reputation. 8 C.F.R. § 204.5(h)(3)(viii). The Petitioner asserts that she is the leading designer and owner of [REDACTED] that she performed in a leading and critical role for this organization, and that the organization has a distinguished reputation. With the petition, she submitted a letter from the vice president of her [REDACTED] company; articles discussing local exhibitions of her designs in Venezuela; letters from companies she has collaborated with; a printout from her Instagram account; financial evidence relating to her company; and a letter from a photographer who has photographed her designs. In the RFE, the Director requested additional evidence to demonstrate that [REDACTED] is an organization with a distinguished reputation. The Petitioner's RFE response highlighted previously submitted articles related to her work in *Panorama* and *La Verdad* to demonstrate that she has performed a leading role for an establishment with a distinguished reputation.

In his decision, the Director determined that that Petitioner did not establish that her [REDACTED] brand has a distinguished reputation. The Director found that the articles in *Panorama* and *La Verdad* did not speak to the distinguished reputation of the Petitioner's brand, [REDACTED] the Director stated, "in fact, little is known about this company in the record." On appeal, the Petitioner again asserts that the article in *Panorama* discussing her receipt of the Mara de Oro award, and the article in *La Verdad* stating that her business is a "big success," demonstrate that she has performed a leading or critical role for an establishment with a distinguished reputation.

Upon review, we agree with the Director that that Petitioner has not established that her [REDACTED] brand has a distinguished reputation. The record does not include evidence sufficient to allow for an evaluation of the Petitioner's brand or company as it compares to others in the industry. Aside from the mention of her work in articles, the only business documents of record are a 2017 cash flow statement and a 2017 report of financial statements from a public accountant described in the report as "unaudited" and "unreviewed;" these documents provide a limited view of the reputation of the Petitioner's business. While the record includes letters of endorsement from the Petitioner's colleagues that speak to her creativity and work ethic, the letters do not provide sufficient information to establish that [REDACTED] holds a distinct or eminent reputation as a brand in the fashion industry. The Petitioner has not met her burden to establish that she has performed in a leading or critical role for organizations or establishments that have a distinguished reputation under 8 C.F.R. § 204.5(h)(3)(viii). *See Matter of Chawathe*, 25 I&N Dec. at 375-76.

### III. CONCLUSION

The Petitioner has not submitted the required initial evidence of either a one-time achievement or evidence that meets 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. 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).

The Petitioner has not demonstrated eligibility as an individual of extraordinary ability. The appeal will be dismissed for the above stated reasons.

**ORDER:** The appeal is dismissed.