



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

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

In Re: 33406698

Date: SEP. 13, 2024

Appeal of Texas Service Center Decision

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

The Petitioner, a journalist, seeks classification as an individual 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 the Petitioner did not satisfy the initial evidence requirements for this classification by meeting at least three of the ten evidentiary criteria set forth in the regulations. The matter is now before us on appeal pursuant to 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 immigrant classification under section 203(b)(1)(A) of the Act 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 country to continue working in the area of extraordinary ability; and
- Their entry into the United States will substantially benefit the country in the future.

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 submit evidence of a one-time achievement (that is, a major, internationally recognized award). If a petitioner does not submit this evidence, then they must provide documentation establishing that they meet 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 demonstrates that they meet 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 Amin v. Mayorkas*, 24 F.4th 383, 394 (5th Cir. 2022); *Viscinscaia v. Beers*, 4 F.Supp 3d 126, 131-32 (D.D.C. 2013); *Rijal v. USCIS*, 772 F. Supp. 2d1339 (W.D. Wash. 2011).

II. ANALYSIS

The Petitioner is a journalist specializing in automotive journalism, with over 25 years of experience in the field. The record reflects he has also worked as a business owner and executive in the communications industry, an elected city councilor in municipal government in Brazil, and as a parliamentary assistant for the legislative assembly of the State of Sao Paulo. Based on the Petitioner's submitted professional plan, he intends to continue working as "an automobile journalist" in the United States.

A. Evidentiary Criteria

Because the Petitioner has not indicated or established that he has received a major, internationally recognized award, he must show that he satisfies at least three of the ten regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x).

The Director determined that the Petitioner submitted evidence related to seven of the regulatory criteria, including lesser nationally or internationally recognized awards or prizes, published material in professional publications or major media, judging the work of others, original contributions of major significance in his field, authorship of scholarly articles, leading or critical roles for organizations that have a distinguished reputation, and earning a high salary in relation to others in the field. *See* 8 C.F.R. § 204.5(h)(3)(i), (iii)-(vi), (viii) and (iv).

Of these seven criteria, the Director concluded that the Petitioner met only one, by providing evidence that he had performed in a leading or critical role for an organization that has a distinguished reputation, under 8 C.F.R. § 204.5(h)(3)(viii). The record supports the Director's determination based on evidence of the Petitioner's leadership role within the Brazilian Automotive Press Association.

Although the Petitioner submits a brief in support of the appeal, he does not contest the Director's determination that he did not satisfy the criterion at 8 C.F.R. § 204.5(h)(3)(i), relating to his receipt of lesser nationally or internationally recognized awards or prizes for excellence in his field. An issue not raised on appeal is waived. *See, e.g., Matter of O-R-E-*, 28 I&N Dec. 330, 336 n.5 (BIA 2021) (citing *Matter of R-A-M-*, 25 I&N Dec. 657, 658 n.2 (BIA 2012)).

In his brief, the Petitioner asserts that he has established by a preponderance of the evidence that he meets the five remaining claimed criteria, which we will discuss below. Upon reviewing all the evidence in the record, we conclude the record does not support a finding that the Petitioner satisfies at least three criteria.

1. Published Materials

To meet the criterion at 8 C.F.R. § 204.5(h)(3)(iii), a petition must include “published material about the person in professional or major trade publications or other major media relating to the person’s work in the field for which classification is sought.” In evaluating whether a submitted publication is a professional publication, major trade publication or other major media, relevant factors include the intended audience (for professional and major trade publications), and the relative circulation, readership or viewership (for major trade publications and other major media). *See generally* 6 USCIS Policy Manual F.2(B)(1), <https://www.uscis.gov/policy-manual> (discussing how USCIS evaluates initial evidence of extraordinary ability under the criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x)).

As noted by the Director, the Petitioner’s initial evidence included published materials appearing in various Brazilian print and online publications, including *A Vos do Povo*, *Jornal do Interior*, *Jornal Votura*, *Cheiro do Mato*, *Comandonoticia.com*, and *ShopCar News*. In a request for evidence (RFE), the Director advised the Petitioner that the submitted articles did not discuss or relate to the Petitioner’s work as a journalist, but rather discuss his ostrich farm, his work as a company director for [redacted] and his work in local government. The Director also emphasized that his initial submission lacked documentation needed to establish that any of the submitted publications are professional publications, major trade publications or other major media, as the record lacked evidence regarding the publications’ intended audience or data regarding their relative circulation, readership or distribution.

The Petitioner’s response to the RFE focused solely on an article titled [redacted] [redacted] which was published in the newspaper *Folha de Sao Paulo*. The Petitioner emphasized that the article “directly relates to [the petitioner’s] involvement in the automotive sector, specifically featuring his photography work showcasing the new Chevrolet Vectra model, indicating his professional engagement within the industry.” The subject of the article is the upcoming release of an automobile in the Brazilian market. Although the Petitioner’s name is mentioned, he is merely credited for contributing the photographs that appear in the article. Therefore, while the record contains sufficient evidence to demonstrate that *Folha de Sao Paulo* qualifies as major media in Brazil, we agree with the Director’s determination that this article does not qualify as published material *about* the Petitioner and relating to his work in the field.

On appeal, the Petitioner requests reevaluation of two newspaper articles published in the newspaper *Jornal Votura* in June 2012. The Petitioner contends these articles, which are about him and a project he undertook as director of [redacted] to bring newspapers to local schools, do in fact relate to his work in the field of journalism. While the record supports this assertion, it lacks evidence to support the Petitioner’s claim that this newspaper is a major media publication. At the time of filing, the Petitioner stated that *Jornal Votura* “has a wide reach in the state of Sao Paulo, which is the richest state in Brazil and has 44.04 million inhabitants.” He also emphasized that this newspaper is “part of the [redacted] which has “more than 39 years’ experience in the market.” However, as noted by

the Director in the RFE, this statement is not sufficient to demonstrate that *Jornal Votura*'s relative circulation qualifies it as "major media" among newspapers in Brazil.

On appeal, the Petitioner reiterates that this publication (which he states is now known as *Jornal Indaiatuba News*) circulates within Brazil's most populous state and is part of the [REDACTED]. He emphasizes that it "boasts a social media following of over 40,000 individuals" and submits a screenshot from the newspaper's Facebook page showing 44,000 followers as of 2024. However, the record continues to lack evidence regarding the circulation of this newspaper and how it compares to that of other newspapers in Brazil. This information regarding the newspaper's current social media following is insufficient to demonstrate that *Jornal Votura* qualifies as a major media publication.

For the reasons discussed, the Petitioner has not established that he meets the criterion at 8 C.F.R. § 204.5(h)(3)(i).

2. Judging

To meet the criterion at 8 C.F.R. § 204.5(h)(3)(iv), the Petitioner must provide evidence of his participation, either individually or on a panel, as a judge of the work of others in the same or an allied field of specialization for which classification is sought.

The Director acknowledged that the Petitioner provided evidence that he has served as a jury member for the annual Brazilian Automotive Press Association's annual ABIAUTO awards and for Brazil's Top Car TV awards. The Petitioner emphasized that the ABIAUTO awards bring together more than 40 specialized journalists from throughout Brazil who "participat[e] in the elections of the best cars in Brazil which are divided into eight categories." The evidence indicates that the Top Car TV awards follow a similar process and serve a similar purpose. The Director observed that while the Petitioner's area of expertise as a journalist may focus on the automotive industry, the plain language of the criterion requires that the petitioner judge the work of others in the same or an allied field. The Director concluded he did not meet the criterion, emphasizing "the petitioner is a journalist, and the evidence does not establish that he judged the work of other journalists."

On appeal, the Petitioner provides additional background information regarding automotive journalism and automobile manufacturing. He maintains that "automotive journalists must possess an intimate understanding of the intricacies of the automotive industry and its operational processes." Further, the Petitioner objects to the Director's determination that he must demonstrate he has judged the work of other journalists. He maintains this conclusion "appears overly reductionist and apparently diverges from the primary intent of this requirement, which is to demonstrate his position as an expert in his field, being part of a small percentage who has risen to the very top of the field of endeavor."

Upon review, we agree with the Director's determination that the Petitioner's judging activities do not satisfy the plain language of the criterion at 8 C.F.R. § 204.5(h)(3)(iv). As emphasized by the Director the regulation require evidence that the individual has "judged the work of others in the same or an allied field of specialization for which classification is sought." The Petitioner seeks extraordinary ability classification based on his expertise in journalism, and more specifically, automotive journalism. His participation on a jury responsible for selecting the "best cars" in different vehicle categories does not involve judging the work of other individuals working in his field or an allied field.

Rather, the record indicates that the juries for the ABIAUTO and Top Car TV awards evaluate the features and performance of passenger vehicles, rather than the work or performance of individuals working in the field of journalism, or even the work of specific individuals working in the automotive industry. As such, we find the Director did not apply an overly restrictive interpretation of the plain language of this regulation.

The Petitioner also argues that following the Director's logic, "a professor of neurosurgery, for instance, would be expected to demonstrate the fulfillment of these criteria solely through the evaluation of other professors' work, rather than assessing papers developed by students and submitted for presentation at scholarly conferences in the field of neurosurgery, as illustrated in the USCIS Policy Manual." We agree with the Petitioner that a professor's review of student papers in the same academic field would be a qualifying judging activity under the plain language of this regulation and note that a similar example can be found at 6 *USCIS Policy Manual, supra*, at F.2(B)(1).¹ However, the Petitioner has not presented evidence that he has, for example, judged the work of students in the field of journalism or otherwise established that the facts here parallel the examples provided in the *USCIS Policy Manual*.

The Petitioner's participation in the juries of the ABIAUTO and Top Car TV awards demonstrates that he has received recognition in the field of automotive journalism and such evidence would be considered in evaluating whether he has achieved national acclaim in his field in a final merits determination. However, for the reasons discussed, the evidence does not establish that his judging activities satisfy the plain language of 8 C.F.R. § 204.5(h)(3)(iv).

3. Original Contributions of Major Significance

To satisfy this criterion, the Petitioner must demonstrate that he has made original scientific, scholarly, artistic, athletic or business-related contributions of major significance in his field. 8 C.F.R. § 204.5(h)(3)(v).

In evaluating this criterion, the Director acknowledged the Petitioner's reliance on his receipt of certain awards, his publication of articles and reviews as an automotive journalist, his publication of a book on the history of the municipality of [REDACTED] his career as an elected official, certain public service projects related to his career in government, and his participation in automotive industry events, among other evidence. In the RFE, the Director addressed this evidence and explained why it was insufficient to demonstrate that the Petitioner had made original contributions of major significance in the field of journalism, noting, in part, that several of the claimed contributions were unrelated to this field.

In response to the Director's RFE, the Petitioner focused solely on his publication of the book [REDACTED] [REDACTED] to establish his eligibility under this criterion, noting that his decision to write the book "emerged from a dire need to document and compile the history of [REDACTED]"

¹ The *USCIS Policy Manual* provides examples of judging the work of others that include "serving as a member of a Ph.D. dissertation committee that makes the final judgment as to whether a candidate's body of work satisfies the requirements for a doctoral degree, as evidenced by departmental records" and "peer review of abstracts or papers submitted for presentation at scholarly conferences in the respective field."

municipality.”² He provided a statement from the book’s publisher indicating that 1,000 copies were printed in 2002, along with a declaration from the [redacted] municipal secretary of education stating that the book “is available for public consultation in the Municipal Library and also used in schools.” The education secretary further states the book is “very important material for the community, which recounts and records the history of the municipality.” Finally, the Petitioner provided his own statement, in which he explains his motivation for writing the book and some details regarding its subject matter. The Petitioner stated that the work “ended up being a milestone in the municipality” and “has been used for more than 20 years in the municipal education network, reaching approximately 10,000 students.”

The Director acknowledged the evidence submitted in response to the RFE and granted that the Petitioner’s book is an original contribution and deemed to be “significant to the Municipality of [redacted] [redacted].” However, the Director concluded the Petitioner did not meet his burden to demonstrate that [redacted] is a contribution that is of major significance in the field of journalism, and therefore did not establish that he meets the plain language of this criterion.

On appeal, the Petitioner maintains that his book relied on his collaboration with local historians, notable personalities and residents to gather insights about the history of [redacted] and represents a “substantial contribution to the field of historical documentation.” While he acknowledges the Director’s determination that he did not establish the book’s major significance within the field of journalism, he asserts that “it is pivotal to acknowledge that [his] objective was to document the local history rather than solely cater to the journalism industry.” In this regard, he states that “the lack of extensive distribution within journalism circles does not diminish the significance of [his] work.” He explains that the book’s “sustained integration within the educational framework for over two decades . . . underscores its enduring relevance and impact transcending the realm of journalism.” Finally, he asserts the Director “overlooked 8 C.F.R. 204.5(h)(4), which permits the petitioner to present comparable evidence” to establish extraordinary ability.

As noted by the Director, the Petitioner has established that his publication of [redacted] [redacted] is an original contribution based on its subject matter. However, the record does not demonstrate that the book has been cited by other authors, has provoked widespread commentary on its importance (either in the field of journalism or the field of “historical documentation”), or has otherwise had an influence or impact that rises to the level of “major significance.” The fact that it is available at the municipal public library and may still be used in the local public schools alone is insufficient to demonstrate how the book’s impact or influence is of major significance. Further, the record shows that book was not widely distributed as only 1,000 copies were printed. While it appears that the Petitioner relied on journalistic techniques in writing the book to fill a course requirement for his undergraduate degree, its major significance in the field of journalism is not documented in the record.

As noted, the Petitioner claims on appeal that the Director should have considered his book under 8 C.F.R. § 204.5(h)(4), which provides petitioners the opportunity to submit comparable evidence to

² A translated excerpt from the book indicates that it was written by the Petitioner for “completion of course work presented as a partial requirement for obtaining the Bachelor’s Deg. in Social Communication Qualification in Journalism.” The book was published in 2002 and the Petitioner received his bachelor’s degree from [redacted] in March 2003.

establish eligibility. When evaluating comparable evidence, USCIS must consider whether a given criterion is readily applicable to the person's occupation and, if not, whether the evidence provided is truly comparable to that criterion. A general unsupported assertion that a listed evidentiary criterion does not readily apply to a petitioner's occupation is not probative. *See generally 6 USCIS Policy Manual, supra*, at F.2(B)(1).

Here, the Petitioner has not articulated a claim that the criterion at 8 C.F.R. § 204.5(h)(3)(v) is not readily applicable to his occupation. In fact, as discussed further below, the Petitioner claims that his body of work as an automotive journalist represents an original contribution of major significance. Further, he did not previously assert that he sought to meet this criterion under the comparable evidence provision at 8 C.F.R. § 204.5(h)(4). Regardless, for the reasons discussed above, the Petitioner has not demonstrated that his book represents an original contribution of major significance, either in the field of journalism or in another peripheral field.

The Petitioner emphasizes on appeal that he “has authored numerous original articles across various formats and platforms within the journalistic media landscape.” In this regard, he states his work has been “featured in widely cited circulated periodicals within his region, and notably he has also contributed to one of Brazil's foremost newspapers, *Folha de Sao Paulo*.” He also emphasizes that he has submitted both published materials and supporting letters affirming the substantial significance of these extensive contributions.”

While the record contains ample evidence of newspaper and magazine articles the Petitioner published in his capacity as an automotive journalist, we agree with the Director's observation that, given the nature of the profession, simply demonstrating that he has authored articles and automotive reviews that have reached a significant audience in his region is not sufficient to demonstrate the major significance of his work in the field of journalism.

We have also reviewed the submitted recommendation letters, as detailed letters from experts in the field may provide valuable context for evaluating this criterion. Such letters should specifically describe the person's original contribution and its significance in the field. *See generally 6 USCIS Policy Manual, supra*, at F.2(B)(1). Here, the recommendation letters offer enthusiastic praise for the Petitioner's knowledge, skills and experience as a journalist, but do not describe his specific contributions and their major significance.³

For example, a letter from N-N-, a fellow journalist, praises the Petitioner's “professional capacity and commitment” and his production of “high quality content for the car segment” for readers with an interest in this area. He states that the Petitioner has “many achievements and accomplishments” but does not identify a specific original contribution or its major significance in the field of journalism. He also provided a letter from P-L-D-, a retired General Motors executive, who describes the Petitioner as “one of the most qualified automotive journalistic writers and photographers” he has met. He states that the Petitioner's “critical reviews have been helping many of our clients to choose the perfect vehicle for their needs which is why his work has been truly useful not only for us as a company, but

³ While we do not discuss each letter individually, we have reviewed each one. We note that several of the letters do not discuss the Petitioner's work as a journalist but instead focus on his work in municipal government, which is not the field in which he intends to work in the United States.

also for consumers.” He concludes that the Petitioner “has made significant contributions not only to the market but mostly to society” but does not elaborate on this broad statement. Several other letters similarly highlight that the Petitioner’s published reviews provide important information to consumers while also helping manufacturers to bring attention to their brands. However, the testimonial evidence does not demonstrate how the Petitioner’s publication of automobile reviews in mostly regional newspapers and magazines presents a contribution of major significance in the field of automotive journalism. Further, it is reasonable to conclude that these types of reviews and articles, regardless of whether they are written by the Petitioner or another journalist in the field, are universally intended to provide helpful information to consumers while promoting the manufacturers’ latest models.

A letter from the founder of *Carro* magazine, states the Petitioner possesses “remarkable” knowledge in the automotive area and “has contributed a lot to the history of automotive journalism in Brazil, based on his many years of experience in “writing, photography, investigation and critical thinking.” But the letter does not provide sufficient detail or explanation to demonstrate that the Petitioner has influenced or impacted the field of automotive journalism or detail his specific contributions to “the history” of the field.

Overall, the recommendation letters demonstrate that the Petitioner is a highly regarded professional in his field who has earned the respect of fellow journalists and automobile executives alike. However, it does not demonstrate that he has made original contributions of major significance in his field. Therefore, for the reasons discussed, the Petitioner has not demonstrated that he satisfies the criterion at 8 C.F.R. § 204.5(h)(3)(v).

4. High Salary

To satisfy the criterion at 8 C.F.R. § 204.5(h)(3)(ix), the Petitioner must demonstrate that his salary or remuneration is high relative to the compensation paid to others in the field. To determine whether a person’s compensation is high relative to others, USCIS will consider comparative evidence, such as geographical or position-appropriate compensation surveys. *See generally 6 USCIS Policy Manual, supra*, at F.2(B)(1).

The Petitioner claims that he has earned a high salary in his role as a “Parliamentary Assistant III” with the [REDACTED]. He states that his monthly remuneration was more than double the average monthly salary for journalists in Brazil. In support of this claim, the Petitioner has submitted:

- His pay statements from [REDACTED] for the months of November 2021 to January 2022;
- His Brazilian Individual Income Tax Return for calendar year 2021;
- “Salary Floor” information for journalists published by the Union of Professional Journalists in the State of Sao Paulo;
- Salaries for journalists in Brazil, published by Glassdoor.com;
- Job duties and requirements for “Parliamentary Assistant” positions within [REDACTED] and
- An excerpt from a February 2019 resolution passed by the Board of the Legislative Assembly of the State of Sao Paulo, which relates to staff appointment procedures and systems.

The Director concluded that the Petitioner did not submit evidence that his role as a “Parliamentary Assistant III” is comparable to the journalist positions that are included in the two submitted salary surveys, noting that both reflect salaries for journalists “working in various kinds of media such as newspapers, magazines, radio and TV.” The Director also emphasized that he did not provide evidence to establish that his salary with [redacted] is high “when compared to others in the position of Parliamentary Assistant III.”

Upon review, we disagree with the Director that the Petitioner did not provide an appropriate basis for a salary comparison. The evidence documenting the duties and professional qualifications required for the “parliamentary assistant III” position with [redacted] indicate that the position performs “activities typical of the profession of journalist” and requires “professional registration as a journalist, as issued by the Ministry of Labor.” Further, while the salary data provided by the Union of Professional Journalists in the State of Sao Paulo provides average wages for those employed by print media publications and radio and television, it also provides salary information for those employed by press offices. The record contains evidence that the Petitioner’s position with [redacted] was referred to internally as “press officer” based on the job title stated on his government-issued employee credential.

However, the comparative salary information does not demonstrate that the Petitioner earned a high salary, or other significantly high remuneration, in relation to other similarly employed journalists. The “salary floor” published by the Union of Professional Journalists in Sao Paulo indicates “standard salaries” for journalists employed by press offices as R\$ 4,057 or R\$ 6,521 for 2021-2022 depending on whether they work a “5 hour floor” or “7 hour floor,” presumably referring to the daily hours worked. The more general data provided by Glassdoor.com indicates that the average monthly salary for a journalist in Brazil is R\$ 3,307, with a range extending from R\$ 2,000 to R\$ 7,000.

The Petitioner’s pay statements from [redacted] indicate that he received total monthly payments ranging from R\$ 7025 to R\$ 8786, which included a consistent “base salary” of R\$ 3075.71. His total monthly remuneration included a “legislative bonus” of over R\$ 1800, a “representation bonus” of over R\$ 1100 per month, and varying amounts of “food aid” and “health aid.” The Petitioner’s claim that he commanded a high salary therefore appears to be based on a comparison of his total monthly remuneration to the monthly salaries of other journalists. The record does not contain comparative data showing how his total remuneration compares to that of other journalists and therefore does not establish that such remuneration was “significantly high” as required by the plain language of the regulation at 8 C.F.R. § 204.5(h)(3)(ix). Further, the record does not show that the base salary reflected on his pay statements is high compared to that earned by other journalists. Accordingly, the Petitioner has not demonstrated that he meets this criterion.

B. Summary and Reserved Issue

The record does not establish that the Petitioner meets any of the four evidentiary criteria discussed above. Because the Petitioner cannot meet the initial evidentiary requirement of three criteria under 8 C.F.R. § 204.5(h)(3), detailed discussion of the remaining contested criterion at 8 C.F.R. § 204.5(h)(3)(vi) cannot change the outcome of the appeal. Therefore, we reserve and will not address that remaining issue. *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); *see also Matter of D-L-S-*, 28 I&N Dec. 568, 576-77 n.10 (BIA 2022) (declining to reach alternative issues on appeal where an applicant is otherwise ineligible).

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 regulatory criteria as required under 8 C.F.R. § 204.5(h)(3). 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 and conclude 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. 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 his 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 sustained national or international acclaim in the field, and that he 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.