



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

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

In Re: 33752638

Date: SEP. 13, 2024

Appeal of Texas Service Center Decision

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

The Petitioner, a financial manager, 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 at least 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 withdraw the Director's decision and remand the matter for entry of a new decision consistent with the following analysis.

## 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). 6 *USCIS Policy Manual* F.2, <https://www.uscis.gov/policy-manual/volume-6-part-f-chapter-2>.

## II. ANALYSIS

The Petitioner is a financial manager who has held positions of responsibility in various capital venture firms and founded her own investment firm, [REDACTED] (N-).<sup>1</sup> She provided documentary evidence about her work within this field, including among other things, testimonial letters, major media articles and other forms of recognition of her capital investment activities and those of her employers and clients. The Petitioner intends to pursue her career in the venture capital industry in the United States. She asserts:

[I am] a well-accomplished financial expert in the venture capital arena, holding significant positions at two distinguished firms [K- and N-]. In these roles, [I have] spearheaded angel-round investments for over 100 startups, significantly impacting the growth of many notable technology companies. Beyond providing financial supports, [I] also significantly contributed to talent acquisition, the provision of technological resources, and strategic development guidance. [I] enabled these startups to tap into a vast network of industry contacts, potential customers, partners and investors, aiding in the ascent of [currently NASDAQ-listed companies] from their early stages to successful public listings.

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 regulatory criteria by providing sufficient evidence that material had been published about her in major trade publications or major media and had judged the work of others in the field. *See* 8 C.F.R. § 204.5(h)(3)(iii) and (iv). On appeal, the Petitioner asserts that she also meets two other criteria, including the leading or critical role with a distinguished organization criterion at 8 C.F.R. § 204.5(h)(3)(viii). She asserts that the Director erred in determining that she did not meet the plain language of these two criteria.

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<sup>1</sup> The Petitioner indicated in the petition that she intends to be employed within the “Financial Managers” occupation should this petition be approved. DOL’s Occupational Information Network (O\*NET) summary report for “Financial Managers,” may be viewed at <https://www.onetonline.org/link/summary/11-3031.00>.

As more fully discussed below, we conclude that the Petitioner has met the criterion at 8 C.F.R. § 204.5(h)(3)(viii). Because the Petitioner has shown that she satisfies at least three criteria, we will remand the matter to the Director to evaluate the totality of the evidence in the context of a final merits determination to determine whether the Petitioner has demonstrated her sustained national or international acclaim, her status as one of the small percentage at the very top of her field of endeavor, and that her achievements have been recognized in the field through extensive documentation.

*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)

In general, a leading role may be evidenced from the role itself, and a critical role is one in which an individual is responsible for the success or standing of the organization or establishment. To meet this criterion, the person must establish that they have performed in a leading or critical role for an organization, establishment, or a division or department of an organization or establishment.

For a leading role, we look at whether the evidence establishes that the person is (or was) a leader within the organization or establishment or a division or department thereof. A title, with appropriate matching duties, can help to establish that a role is (or was), in fact, leading. For a critical role, we determine whether the evidence establishes that the person has contributed in significantly important ways to the outcome of the organization or establishment's activities or those of a division or department of the organization or establishment. *See generally 6 USCIS Policy Manual F.2, <https://www.uscis.gov/policy-manual>.*

The Petitioner contended before the Director that she performed in leading or critical roles for the venture capital firms where she was employed, including K- and N-. The Director determined that the Petitioner did not meet this criterion concluding that the record lacked sufficient evidence that she had contributed in a significantly important way to these firms. They also determined that the Petitioner only provided general information about these firms and did not, for instance, establish that these firms enjoyed distinguished reputations by offering sufficient evidence, such as material about the awards, recognition, or achievements garnered by these organizations. Based on our de novo review of the record, we withdraw the Director's determination that the Petitioner did not provide evidence sufficient to meet the plain language requirements of this criterion.

On appeal, the Petitioner asserts that the Director did not sufficiently consider the significance of her responsibilities and contributions to K- and N-. For instance, she points to initially submit evidence about her employment with K-, noting that her employment verification letter from K- offered "an organizational chart detailing her position as an Early-Stage Fund Managing Partner and detailed her responsibilities in fundraising and co-managing RMB funds of 1.5 billion yuan and USD funds of \$170 million."

The Petitioner also references other evidence about her work with K-, including an email issued by K- contemporaneous to her resignation from that company that detailed and acknowledged her contributions to the company, and media reports showing that she garnered [redacted] Investor of the Year in 2016" while employed with K-. This evidence is sufficient to demonstrate that the Petitioner played a leading or critical role for K-. The Petitioner also provided evidence to

demonstrate that K- manages over 600 portfolio companies across a variety of industries and enjoys a distinguished reputation in the Petitioner's home country, earning industry awards for excellence within the venture capital field.

The testimonial letters, media reports and documentary evidence about N-'s business activities in the record indicates that the Petitioner founded this company in 2017, holds a 99% ownership share position therein, and "is the highest decision-maker in the organization." The record reflects that N- is the management company for (N- Fund) and earned over \$26 million in revenue in 2022. N- has made investments in over 60 startup companies since its inception, in some cases securing follow-on financing from investment institutions, such as S-, T-, and A-. The Petitioner has also provided evidence that N- has garnered industry awards for excellence within the capital investment field as reported by various media outlets in the Petitioner's home country, which suggests it enjoys a distinguished reputation there.

For the foregoing reasons, we agree with the Petitioner that, more likely than not, she meets the plain language requirements for this criterion through performing leading or critical roles for entities that possess distinguished reputations, and the Director erred in concluding otherwise. We withdraw this aspect of the Director's decision and remand the matter for further review and entry of a new decision. Because the Petitioner has established her qualifications under criteria at 8 C.F.R. § 204.5(h)(3)(iii), (iv), and (viii), on remand, the Director should conduct a final merits review of the evidence of record.

As extraordinary ability is an elite level of accomplishment whose recognition necessarily entails a judgement call, it cannot be established through meeting at least three of the evidentiary criteria alone. The final merits determination is the ultimate statutory inquiry of whether the applicant has extraordinary ability as demonstrated by sustained national or international acclaim. *Amin v. Mayorkas*, 24 F.4th 383, at 395 (2022). The Petitioner seeks a highly restrictive visa classification, intended for the handful of individuals at the top of their respective fields. 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). As contemplated by Congress, the Petitioner must demonstrate the required sustained national or international acclaim, consistent with a "career of acclaimed work in the field." H.R. Rep. No. 101-723, 59 (Sept. 19, 1990); *see also* section 203(b)(1)(A) of the Act.

The new decision should include an analysis of the totality of the evidence, evaluating whether the Petitioner has demonstrated, by a preponderance of the evidence, her sustained national or international acclaim, her status as one of the small percentage at the very top of her field of endeavor, and that her achievements have been recognized in the field through extensive documentation. *See* section 203(b)(1)(A)(i) of the Act; 8 C.F.R. § 204.5(h)(2), (3); *see also Kazarian*, 596 F.3d at 1119-20. We express no opinion regarding the ultimate resolution of this case on remand.

**ORDER:** The Director's decision is withdrawn. The matter is remanded for the entry of a new decision consistent with the foregoing analysis.