



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

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

In Re: 6370813

Date: APR. 6, 2020

Appeal of Nebraska Service Center Decision

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

The Petitioner, an entrepreneur in the field of business, seeks classification as an alien of extraordinary ability. *See* Immigration and Nationality Act (the Act) section 203(b)(1)(A), 8 U.S.C. § 1153(b)(1)(A). This first preference classification makes immigrant visas available to those who can demonstrate their extraordinary ability through sustained national or international acclaim and whose achievements have been recognized in their field through extensive documentation.

The Director of the Nebraska Service Center denied the petition, concluding that the record did not establish that the Petitioner meets the initial evidentiary requirement of at least three of the criteria listed at 8 C.F.R. § 204.5(h)(3)(i)-(x).

In these proceedings, it is the Petitioner's burden to establish eligibility for the requested benefit. *See* Section 291 of the Act, 8 U.S.C. § 1361. Upon *de novo* review, we will dismiss the appeal.

**I. LAW**

Section 203(b)(1) of the Act makes visas available to immigrants with extraordinary ability if:

- (i) the alien has extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and whose achievements have been recognized in the field through extensive documentation,
- (ii) the alien seeks to enter the United States to continue work in the area of extraordinary ability, and
- (iii) the alien's entry into the United States will substantially benefit prospectively the United States.

The term "extraordinary ability" refers only to those individuals in "that small percentage who have risen to the very top of the field of endeavor." 8 C.F.R. § 204.5(h)(2). The implementing regulation at 8 C.F.R. § 204.5(h)(3) sets forth a multi-part analysis. First, a petitioner can demonstrate sustained

acclaim and the recognition of his or her achievements in the field through a one-time achievement (that is, a major, internationally recognized award). If that petitioner does not submit this evidence, then he or she must provide sufficient qualifying documentation that meets at least three of the ten 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 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). This two-step analysis is consistent with our holding that the “truth is to be determined not by the quantity of evidence alone but by its quality,” as well as the principle that we 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).

## II. ANALYSIS

The Petitioner is the founder of the [REDACTED] Club, a business catering to the owners of high-performance luxury automobiles in China. The business offers car rental and maintenance services, collaborates with the makers of other luxury items to offer exclusives goods and services, and organizes automotive events. The Petitioner states that his intention upon entering the United States would be to “use the access to the U.S. to offer more investment opportunities” to members, and to reach partnership agreements with similar clubs 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 satisfy at least three of the alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x). The Director found that the Petitioner met two of the evidentiary criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x), relating to published material about him in major media and his leading role for the company he founded. On appeal, the Petitioner asserts that he also meets the evidentiary criteria relating to participation as a judge of the work of others in the field, and original business contributions of major significance. After reviewing all of the evidence in the record, we find that he has not met the initial evidence requirements.

The Director issued a request for evidence (RFE) seeking translator certifications which state that the provided translations of documents from the Chinese to English language were complete, in accordance with 8 C.F.R. § 103.2(b)(3). In response, the Petitioner submitted the same evidence as initially submitted, together with individual certifications for each translated document which included the required statement. However, upon review we note that many of the English language translations do not include a complete translation of the original material in Chinese, which is evident based upon

a comparison of the structure of the materials and the Petitioner's highlighting of his name and certain passages in the original documents.

*Published material about the alien in professional or major trade publications or other major media, relating to the alien'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)*

The Director found that the Petitioner meets this criterion, but did not provide an analysis or indicate which evidence supported the Petitioner's claim. The Petitioner submitted more than twenty articles in support of this criterion, along with evidence relating to the media in which they were published.<sup>1</sup> While, as noted above, most of the translations accompanying these documents are incomplete, the evidence is sufficient to show that some of them are about the Petitioner and his work, focusing on his career and establishment of the [REDACTED] Club. However, of these articles about the Petitioner, much of the evidence regarding the media in which they were published does not establish that they can be considered either professional or major trade publications or another type of major media. For example, information on website traffic was submitted regarding www.sohu.com and www.163.com, internet portals which are popular in China. However, many of the articles were posted on specific webpages within those portals, such as [REDACTED]sohu.com and [REDACTED]163.com, about which information was not provided. In those cases, the record does not include information regarding the specific media on which these articles were published, and they are therefore not qualifying under this criterion.

Other articles about the Petitioner, however, have been sufficiently shown to have been published in major media. For example, the record includes an interview of him at the 2016 [REDACTED] Auto Show which was posted on autohome.com.cn. As such, we agree with the Director that the Petitioner meets this criterion.

*Evidence of the alien's 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. 8 C.F.R. § 204.5(h)(3)(iv)*

In his decision, the Director found that the Petitioner does not meet this criterion, as many of the events he asserted to have judged were racing events in which he was not judging the work of other entrepreneurs or executives in their business capacities. He also acknowledged the evidence regarding the [REDACTED] Ceremony," for which the Petitioner asserted that he served as a judge for several awards given to club members, including [REDACTED] and [REDACTED]. However, as with the awards related to automotive events, he found that the evidence does not show that, in this role, the Petitioner was judging the business work of other executives.

On appeal, the Petitioner submits new evidence consisting of certificates which are not signed but include the seal of the [REDACTED] Club. Each of these, one for every year from 2010 to 2018, includes a statement that the Petitioner served as a judge at these events, and in particular for awards for "most

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<sup>1</sup> While many of the English translations accompanying these articles are incomplete, the evidence is sufficient to determine that several of the articles are about the Petitioner.

potential young entrepreneur,” “most contribution member,” and “best cooperative brand.” They also include lists of the awardees in every year, as well as the criteria for each award.

We first note that the certifications are not supported by independent documentary evidence of the criteria used for these awards, the individuals who served as judges, and the fields in which the recipients are engaged. In addition, the information in these certificates is inconsistent with previously submitted evidence in the record. An article which appears to be a social media post by the club describes the 2013 [ ] Ceremony and lists the members who won several awards, including “Best Newcomers,” “Best Tolerance,” “Most Potential Young Entrepreneur,” and “Most Temperate Entrepreneur” among others. We note that in the list of winners for the “Most Potential Young Entrepreneur” award, two of the five names listed in the article are different from those listed on the certificate pertaining to the 2013 ceremony. In addition, whereas the certificate lists eight winners of the “Best Manner” award, the article lists four names under two separate awards, “Best Tolerance” and “Most Temperate Entrepreneur,” and again not all of the names are the same between the two documents. Further, another certificate initially submitted includes the same names as those listed in the article, but lists the winners of the “Most Temperate Entrepreneur” award in the article as receivers of the “Most Distinguished Entrepreneur” award. The Petitioner must resolve these discrepancies in the record with independent, objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988). Because of the lack of such evidence, both to resolve these factual discrepancies and corroborate information in the certificates issued by the company founded and run by the Petitioner, we find that the Petitioner has not established that he has participated as a judge of the work of others in his field.

*Evidence of the alien’s original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field.* 8 C.F.R. § 204.5(h)(3)(v)

In order to satisfy this criterion, a petitioner must establish that not only have they made original contributions to the field, but also that those contributions have been of major significance. For example, a petitioner may show that the contributions have been widely implemented throughout the field, have remarkably impacted or influenced the field, or have otherwise risen to a level of major significance in the field.

The Director found that while the evidence may have shown the Petitioner’s original contribution to the field of business, the creation of a new business model, it did not establish the major significance of this contribution. On appeal, the Petitioner asserts that the Director did not consider evidence of his contributions to the exotic car industry and automobile culture in China, and refers to additional reference letters not specifically addressed in the Director’s decision, as well as media reports about [ ] Club.

The first reference letter, which was analyzed by the Director in his decision, was written by [ ] of the University of [ ]. While [ ] states that he “knew [the Petitioner] several years,” he does not indicate in what capacity he knew the Petitioner or how he became familiar with the specifics of his operation of [ ] Club. He goes on to state that the Petitioner is an expert in the field of “automotive public relations,” and was the first to introduce “the concept of super car club.” [ ] also states that the Petitioner’s focus on privacy for his elite clients was an innovation, and mentions that the business also focuses on “extended services”

such as [ ] customization, loan services and [ ] security. In addition, he writes that other super car clubs have failed because they did not focus on [ ] or did not offer the extended services as the Petitioner has, so that [ ] Club “occupies the top position in super club ranking.”

Another letter was submitted by [ ], who indicates that he holds several positions in government and volunteer organizations. [ ] describes the Petitioner as “an entrepreneur in the automobile industry in China,” and commends his organization of the [ ] activity and its goals of “deepen[ing] the public’s knowledge of car culture and encourage the people to donate for public causes.” He also states that by encouraging club members to donate to charitable causes, the Petitioner “has changed the perception of super car clubs from a wealth showoff to a caring, socially responsible industry.” [ ] further notes the Petitioner’s collaboration with [ ] to design special edition watches bearing [ ] Club branding, stating that this is indicative of the club’s global reputation.

In addition, a letter was submitted [ ] founder of an automobile dealer group in [ ], the city in China where the Petitioner’s business is also based. [ ] states that there were very few [ ] car owners in China when the Petitioner began his business in 2007, but even though other clubs have arisen which have successfully imitated [ ] Club, it “is in a stronger position than all these clubs because of its unique services and well-established networks.” He also indicates that the club is differentiated from other super car clubs in its professional staff, strict membership guidelines, and collaboration with luxury brands. [ ] concludes that the Petitioner “changed an entire field” and “enhanced the sales of super cars in China.”

These letters indicate that the Petitioner built a successful business that was among the [ ] supercar clubs in China, which is generally supported by media evidence in the record. For example, an article published on auto.sohu.com dated [ ] 2016, is accompanied by a partial English translation which states that other super car clubs “were more or less affected” by [ ] Club and that many now “exist in name only.” The article also states that the club will be “China’s first luxury car club to enter the capital market.” However, while [ ]’s letter stresses that the success of [ ] Club was built upon its offering of other services, the record does not indicate that other supercar clubs in China have followed this business model by similarly offering extended services and partnering with luxury brands. While the Petitioner’s business model may be unique, he has not established that this model has been adopted by other entrepreneurs or has become widespread even amongst the small group of other supercar club founders in China.

In addition, the assertions in [ ]’s letter about the Petitioner’s impact on the exotic car industry and sales in China are not supported by documentary evidence. In his appeal brief, the Petitioner specifically refers to an interview of him that was published on [ ].auto.sohu.com on [ ] 2016, and took place at the [ ] Auto Show. In the interview, the Petitioner is asked to describe [ ] Club, its membership requirements, local events it has staged, and sales of supercars in the [ ] area. Both the nature of the Petitioner’s responses and the local scope of the website where the interview was published show that the Petitioner is considered to be a local expert in exotic cars in the [ ] area, but do not establish the significance of his contribution to the field as a whole. Further, while he mentions in this interview that a certain number of luxury cars have been sold in conjunction with the [ ] Auto Show, the Petitioner’s statement is not sufficient to support [ ]’s assertion regarding his impact on the sales of supercars in China overall.

Further, the Petitioner's assertions on appeal that he has "raise[d] the level of automobile-related awareness, education, study, investment, and technical expertise in China" are not supported by the evidence to which he refers. For example, although [REDACTED] mentions in his letter that the Petitioner established "[REDACTED] which employs very experienced domestic and foreign engineers and mechanics," this does not support the Petitioner's assertion that his efforts have increased technical automotive expertise in China. What [REDACTED]'s letter, and other supporting evidence, demonstrates is that the Petitioner provides automotive maintenance and customization services to the members of [REDACTED] Club. There is no indication that the Petitioner has established training programs or that the impact of these services extends beyond his clients. More importantly, even were this assertion proven to be accurate, the Petitioner has not shown how this would connote a contribution of major significance to the field of business or entrepreneurship.

Similarly, while the evidence lends some support to the Petitioner's claim to have raised awareness of supercars through [REDACTED] Club's events, at least in the [REDACTED] area, he has not shown how this has impacted other entrepreneurs or been of major significance in the field of business.

For all of the reasons stated above, upon review we agree with the Director that the Petitioner has not established that he meets this criterion.

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

The evidence establishes that as the founder of [REDACTED] Club, the Petitioner has performed in a leading or critical role with respect to this company. In addition, the record includes media reports of the company's activities which demonstrate that it enjoys a distinguished reputation. As such, we agree with the Director that the Petitioner meets this criterion.

### III. CONCLUSION

The Petitioner has not submitted the required initial evidence of either a one-time achievement or documents that meet at least three of the ten criteria. As a result, we need not provide the type of final merits determination referenced in *Kazarian*, 596 F.3d at 1119-20. Nevertheless, we advise that we have reviewed the record in the aggregate, concluding that it does not support a finding that the Petitioner has established the acclaim and recognition required for the classification sought.

The Petitioner seeks a highly restrictive visa classification, intended for individuals already at the top of their respective fields. 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 demonstrate the Petitioner 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.