



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

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

In Re: 34976881

Date: FEB. 13, 2025

Motion on Administrative Appeals Office Decision

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

The Petitioner, a salsa dancer, choreographer and instructor, 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 that the Petitioner did not establish that she had received a one-time achievement (a major, internationally recognized award) or that she satisfied at least three of the initial evidentiary criteria, as required for the requested classification. We dismissed a subsequent appeal. The matter is now before us on combined motions to reopen and reconsider.

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). Upon review, we will dismiss the combined motions.

I. MOTION TO REOPEN

A motion to reopen must state new facts and be supported by documentary evidence. 8 C.F.R. § 103.5(a)(2). Because the scope of a motion is limited to the prior decision, we will only review the latest decision in these proceedings. 8 C.F.R. § 103.5(a)(1)(i), (ii). We may grant motions that satisfy these requirements and demonstrate eligibility for the requested benefit. *See Matter of Coelho*, 20 I&N Dec. 464, 473 (BIA 1992) (requiring that new evidence have the potential to change the outcome).

On motion, the Petitioner submits additional evidence. She asserts that these new facts establish that she satisfies at least three of the initial evidentiary criteria at 8 C.F.R. § 204.5(h)(3)(i) – (x) and is eligible for classification as an alien of extraordinary ability.

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 recognition of their achievements in the field through a one-time achievement (that is, a major, internationally recognized award). If the petitioner does not submit this evidence, then they must provide sufficient qualifying documentation that meets at least three of the ten criteria 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).

Here, the Petitioner did not indicate or establish that she has received a major, internationally recognized award. The Director determined that the Petitioner demonstrated that she met two of the ten criteria. Specifically, the Director concluded that the Petitioner met the criteria at 8 C.F.R. § 204.5(h)(3)(iv) and (vii), having participated as a judge of the work of others in the field, and having displayed her work at artistic exhibitions or showcases. On appeal, we affirmed the Director's decision and concluded that the Petitioner had not demonstrated her eligibility under the additional claimed criteria at 8 C.F.R. § 204.5(h)(3), including:

- (i), Lesser nationally or internationally recognized awards or prizes;
- (ii), Memberships in associations that require outstanding achievements;
- (iii), Published materials in major trade or professional publications or other major media;
- (v), Original contributions of major significance; and
- (viii), Performing in leading or critical roles for organizations or establishments with a distinguished reputation.

On motion, the Petitioner no longer asserts eligibility under the criterion at 8 C.F.R. § 204.5(h)(3)(i). She submits new evidence and again asserts that she has established eligibility under the following criteria at 8 C.F.R. § 204.5(h)(3):

- (ii), Memberships in associations that require outstanding achievements;
- (iii), Published materials in major trade or professional publications or other major media;
- (v), Original contributions of major significance; and
- (viii), Performing in leading or critical roles for organizations or establishments with a distinguished reputation.

At the outset, we note that the Petitioner's eligibility under 8 C.F.R. § 204.5(h)(3)(viii) was an issue that was waived on appeal. The Petitioner did not address or contest on appeal the Director's conclusion that she does not meet this criterion. Accordingly, we deemed this ground to be waived in our appellate

decision. 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)). Therefore, we decline to consider new evidence on motion under this criterion.

A. Evidentiary Criteria

As noted above, the Petitioner maintains that she satisfies at least three of the alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x). Specifically, she maintains that she meets the criteria at 8 C.F.R. § 204.5(h)(3)(i), (iii), and (v). For the reasons discussed below, we find that the Petitioner has not established that she meets at least three categories of evidence.

1. Membership in associations requiring outstanding achievement.

The regulation at 8 C.F.R. § 204.5(h)(3)(ii) calls for “documentation of the alien’s membership in associations in the field for which classification is sought, which require outstanding achievements of their members, as judged by recognized national or international experts in their disciplines or fields.”

To meet the standards of this criterion, an individual must submit evidence that 1) they are a member of an association; 2) the association is in their field of extraordinary ability; 3) the association requires outstanding achievements as a condition for membership; and 4) that the outstanding achievements are judged by national or international experts in their fields.

With the appeal, the Petitioner submitted a letter from the legal representative of Cali Salsa Dancers Association (ASOSALCALI) dated November 24, 2023. The legal representative identified the Petitioner as a member of ASOSALCALI and described the “evaluation criteria” for membership as follows:

1. The new member must be an arts foundation or non-profit organization.
2. The new member must have a board of directors made up of a minimum committee of 10 people.
3. The new member must have legal statutes certified by an attorney.
4. The new member must be registered with the chamber of commerce as an arts foundation or non-profit organization.
5. The new member must delegate a representative who will attend the different meetings or activities required by the board of directors of ASOSALCALI.

We concluded that this evidence did not describe the requirements for membership as outstanding achievements in the field. Nor did the evidence demonstrate that achievements of members are judged by national or international experts in salsa dancing, choreography or instruction.

On motion, the Petitioner again asserts that she is a member of the ASOSALCALI. She submits a new letter from the legal representative of ASOSALCALI dated July 23, 2024. The legal representative lists seven “membership requirements,” including artistic excellence, dedication and commitment, contribution to the salsa guild, academic background, previous experience, references and recommendation and work ethic and professionalism. He also provides the names and credentials

of three board members, stating that candidates for membership are evaluated by “highly qualified and nationally and internationally recognized board of directors in the field of salsa dance.”

The Petitioner does not explain why the criteria for membership with ASOSALCALI, as described in the July 23, 2024 letter, was not described similarly in the earlier letter dated November 24, 2023 and submitted on appeal. The inconsistencies in description of the membership criteria casts doubt on the reliability of the letters from the legal representative. The Petitioner must resolve this inconsistency 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). The record does not include other documentary evidence to support the legal representative’s letter of July 23, 2024, such as ASOSALCALI’s constitution or bylaws discussing the criteria for membership in the association. We note that this evidence was specifically requested in the Director’s request for evidence (RFE) but was not provided in response to the RFE. Nor was it submitted on appeal or with the current motion to reopen.

For these reasons, the Petitioner has not submitted documentation that satisfies this criterion.

2. Published material about the individual.

The regulation at 8 C.F.R. § 204.5(h)(3)(iii) requires “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.”

This criterion requires evidence showing published material about the individual and their work in the field of extraordinary ability. In addition, that material must include basic information such as its title, date and author, and must have been published in professional or major trade publications or other major media.

The record includes several articles on the topic of salsa dancing, some mentioning the Petitioner’s dance studio, [REDACTED] and some featuring the Petitioner. In our previous decision we concluded that many of the articles did not identify the name of the publication. We considered articles published in three publications and concluded that the record did not include evidence to establish the circulation statistics for the publications, or evidence of the intended audience for this publication to establish that it qualified as major media or a major trade publication as required. We also concluded that other articles in the record announce competition winners, and, as the Director noted, do not satisfy the plain language requirements of this criterion.

On motion, the Petitioner states that she now submits additional articles from three publications – newspapers El Pais and El Tiempo, and Semana magazine. However, we note that the Petitioner did not submit an article from or information about the newspaper publication El Pais.

The article from Semana magazine is titled [REDACTED] [REDACTED] and is dated August 11, 2016. The article describes the [REDACTED] and its dance performances in the show titled [REDACTED]. The article mentions the Petitioner as teacher and choreographer and includes a quote from her. However, the record does not include evidence to

establish the circulation statistics for *Semana* magazine, or evidence of the intended audience for this publication to establish that it qualifies as major media or a major trade publication.

The article from the newspaper *El Tiempo* is titled [REDACTED] and is dated September 1, 2016. The article includes an interview with the Petitioner and another dancer about the [REDACTED] performance. However, the record does not include evidence to establish the circulation statistics for *El Tiempo* newspaper, or evidence of the intended audience for this publication to establish that it qualifies as major media or a major trade publication.

The Petitioner also submits screenshots of a video from “CUNY TV,” dated [REDACTED] 2015, and an interview dated [REDACTED] 2012. The record does not include a transcript of the interview or identify the subject of the video. Nor does the record include information about CUNY TV to establish that it qualifies as major media or a major trade publication or identify the interview’s source of publication.

For these reasons the Petitioner did not show that she satisfies this criterion.

3. Evidence of original contributions of major significance.

The regulation at 8 C.F.R. § 204.5(h)(3)(v) calls for “evidence of the alien’s original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field.”

In order to satisfy this criterion, a petitioner must establish that not only have they made original contributions, but that they have been of major significance in the field.¹ 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.

In support of this criterion the Petitioner referenced her contributions to her dance studio, [REDACTED] [REDACTED] as well as bringing “the name of Colombia to the top in the different international Salsa championships.” She also provided a letter from her father as general director of [REDACTED] and a “letter from the Mayor’s Office of [REDACTED]” We concluded that neither of the letters detailed the nature or significance of the Petitioner’s contributions to the field of salsa dancing, choreography and instruction as a whole.

On motion, the Petitioner submits letters of recommendation from her students, the president of ASOSALCALI, and a researcher and professor of salsa and culture. She states that one of her significant contributions as a choreographer and dancer is having “trained outstanding talents who have brought the name of Colombia to the most important states and world competitions.”

A letter dated July 30, 2024, from [REDACTED] credits the Petitioner with being “fundamental to [his] success in salsa internationally.” He states that the Petitioner has “made a significant impact through her social work ... providing opportunities to under privileged children

¹ See 6 USCIS Policy Manual, *supra*.

and youth.” He provides a list of his achievements in salsa and dance competitions and includes a photograph of himself titled “World Games Olympic Medalist [REDACTED]”

We note that Mr. [REDACTED] did not list Olympic medalist among his achievements in salsa and dance. Nor does the photograph identify what medal or for what sport Mr. [REDACTED] was awarded, and whether the Petitioner coached him at the Olympics. Further, the letter does not explain what is unique about the Petitioner’s training methods that can be considered a major contribution to the field of salsa dancing and choreography. Nor does the letter describe the Petitioner’s social work in sufficient detail to identify this as a unique contribution of major significance to the field.

A letter dated August 5, 2024, from [REDACTED] and [REDACTED] states that the Petitioner’s “strong leadership and unmatched talent were instrumental in the start of our career.” They further praise the Petitioner’s “unique approach to choreography, coupled with her exceptional talent.” However, the letter does not describe the Petitioner’s approach to choreography or otherwise detail her unique contributions to the field.

A letter dated August 2, 2024, from [REDACTED] president of ASOSALCALI, describes the Petitioner as “a highly competitive person with extraordinary skills that have repeatedly led her to be named even one of the best choreographers and trainers of great champions of Colombia in the guild of Cali salsa and Latin rhythms.” However, the letter does not specifically describe the Petitioner’s training methods, her choreography accomplishments, or detail her unique contributions to the field of salsa dancing or choreography or their significance to the field.

An undated letter from [REDACTED] researcher and professor at the [REDACTED] [REDACTED] in Colombia, recognizes the Petitioner for her “outstanding career and contribution to the art of Cali salsa.” Mr. [REDACTED] lists the Petitioner’s accomplishments as a teacher, performer and choreography as her “contribution to the art of Cali salsa.” However, the letter does not explain the significance of these contributions to the field of salsa dancing and choreography.

For these reasons, the Petitioner did not show that she satisfies this criterion.

For all of the reasons discussed above, we conclude that the new evidence submitted on motion does not establish that the Petitioner satisfies at least three of the initial evidentiary criteria at 8 C.F.R. § 204.5(h)(3)(i) – (x) and does not establish that she is eligible for classification as an alien of extraordinary ability.

II. MOTION TO RECONSIDER

A motion to reconsider must establish that our prior decision was based on an incorrect application of law or policy and that the decision was incorrect based on the evidence in the record of proceedings at the time of the decision. 8 C.F.R. § 103.5(a)(3). Because the scope of a motion is limited to the prior decision, we will only review the latest decision in these proceedings. 8 C.F.R. § 103.5(a)(1)(i), (ii). We may grant motions that satisfy these requirements and demonstrate eligibility for the requested benefit.

The Petitioner does not assert that our previous appeal decision was based on an incorrect application of law and/or policy. Nor does the Petitioner identify specific errors or explain how our prior appeal decision did not follow the regulations and policy guidance. Upon review, we do not find any error or incorrect application of law or policy. The Petitioner cannot meet the requirements of a motion to reconsider by broadly disagreeing with our conclusions and restating her initial claims; the motion must demonstrate how we erred as a matter of law or policy. *See Matter of O-S-G-*, 24 I&N Dec. 56, 58 (BIA 2006). The Petitioner here has not met the requirements of a motion to reconsider.

III. CONCLUSION

Although the Petitioner has submitted additional evidence in support of the motion to reopen, the Petitioner has not established eligibility. On motion to reconsider, the Petitioner has not established that our previous decision was based on an incorrect application of law or policy at the time we issued our decision. Therefore, the motion will be dismissed. 8 C.F.R. § 103.5(a)(4).

ORDER: The motion to reopen is dismissed.

FURTHER ORDER: The motion to reconsider is dismissed.