



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

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

MATTER OF A-S- LLC

DATE: OCT. 31, 2018

APPEAL OF VERMONT SERVICE CENTER DECISION

PETITION: FORM I-129, PETITION FOR A NONIMMIGRANT WORKER

The Petitioner seeks to temporarily employ the Beneficiary as an animation designer at its animation design studio. To do so, it seeks to classify her as an O-1 nonimmigrant, a visa classification available to foreign nationals who can demonstrate their extraordinary ability through sustained national or international acclaim and whose achievements have been recognized in the field through extensive documentation. *See* Immigration and Nationality Act (the Act) section 101(a)(15)(O)(i), 8 U.S.C. § 1101(a)(15)(O)(i). The Beneficiary is currently employed as with an animation designer with a different petitioner pursuant to an approved O-1 petition. The Petitioner seeks to extend the Beneficiary's O-1 status for a period of three years.¹

The Director of the Vermont Service Center denied the petition, concluding that the Petitioner did not satisfy, as required, the evidentiary criteria applicable to individuals of extraordinary ability in the arts: a significant national or international award, at least three of six possible forms of documentation, or comparable evidence. 8 C.F.R. § 214.2(o)(3)(iv)(A)-(C).

On appeal, the Petitioner maintains that sufficient evidence was presented attesting to the Beneficiary's distinction in the field and, thus, she is eligible for O-1 classification.

Upon *de novo* review, we will dismiss the appeal.

I. LAW

As relevant here, section 101(a)(15)(O)(i) of the Act establishes O-1 classification for an individual who has extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim, whose achievements have been recognized in the field through extensive documentation, and who seeks to enter the United States to continue work in the area of extraordinary ability. Department of Homeland Security (DHS) regulations define "extraordinary ability in the field of arts" as "distinction," and "distinction" as "a high level of

¹ We note that, pursuant to 8 C.F.R. § 214.2(o)(12)(ii), an extension of stay may be authorized in increments of *up to one year* for an O-1 beneficiary to continue or complete the same activity for which he or she was admitted, plus an additional 10 days to allow the beneficiary to get his or her personal affairs in order.

achievement in the field of arts evidenced by a degree of skill and recognition substantially above that ordinarily encountered to the extent that a person described as prominent is renowned, leading, or well-known in the field of arts.” 8 C.F.R. § 214.2(o)(3)(ii).

Next, DHS regulations set forth alternative initial evidentiary criteria for establishing a beneficiary’s sustained acclaim and the recognition of achievements. A petitioner must submit evidence either of “significant national or international awards or prizes” such as “an Academy Award, an Emmy, a Grammy, or a Director’s Guild Award,” or at least three of six listed categories of documents. 8 C.F.R. § 214.2(o)(3)(iv)(A)-(B). If the petitioner demonstrates that the listed criteria do not readily apply to the beneficiary’s occupation, it may submit comparable evidence to establish eligibility. 8 C.F.R. § 214.2(o)(iv)(C).

The submission of documents satisfying the initial evidentiary criteria does not, in and of itself, establish eligibility for O-1 classification. *See* 59 Fed. Reg. 41818, 41820 (Aug. 15, 1994)(“The evidence submitted by the petitioner is not the standard for the classification, but merely the mechanism to establish whether the standard has been met.”). Accordingly, where a petitioner provides qualifying evidence satisfying the initial evidentiary criteria, we will determine whether the totality of the record and the quality of the evidence shows sustained national or international acclaim such that the individual is prominent in the field of endeavor.

II. ANALYSIS

The record shows that the Beneficiary studied animation at the [REDACTED] and has worked as graphic artist in corporate advertising at [REDACTED] between 2014 and 2015, and an animation designer with [REDACTED] since May 2016, pursuant to an approved O-1 petition. In addition, the evidence indicates that the Beneficiary creates her own cartoons, video games, and animated short films, submitting them to film festivals and publishing them on social media. The Petitioner filed the instant petition on July 12, 2017. In the O and P Classifications Supplement to the petition it indicates that the Beneficiary is the company’s sole member. It submitted its New York Limited Liability Company Articles of Organization filed on [REDACTED] 2017. The Petitioner’s additional evidence included a partnership agreement with [REDACTED] dated May 25, 2017.

The Director determined that the Petitioner satisfied only one of the evidentiary criteria: 8 C.F.R. § 214.2(o)(3)(iv)(B)(4) (major commercial or critically acclaimed successes). On appeal, the Petitioner maintains that it has provided evidence of a significant national or international award in satisfaction of 8 C.F.R. § 214.2(o)(3)(iv)(A), and that it has also met the criteria at 8 C.F.R. § 214.2(o)(3)(iv)(B)(1) (performing as a lead or starring participant in distinguished productions or events), 8 C.F.R. § 214.2(o)(3)(iv)(B)(2) (published material), 8 C.F.R. § 214.2(o)(3)(iv)(B)(3) (performing in a lead, starring, or critical role for distinguished organizations or establishments), and 8 C.F.R. § 214.2(o)(3)(iv)(B)(5) (significant recognition for achievements from experts in the field).²

² The Petitioner does not contest the Director’s finding that it has not claimed that it satisfies the criteria at 8 C.F.R.

As discussed below, we conclude that the record does not satisfy any of the claimed criteria at 8 C.F.R. § 214.2(o)(3)(iv)(A)-(B).

A. Receipt of a significant national or international award or prize

Evidence that the alien has been nominated for, or has been the recipient of, significant national or international awards or prizes in the particular field such as an Academy Award, an Emmy, a Grammy, or a Director's Guild Award. 8 C.F.R. § 214.2(o)(3)(iv)(A).

If the Petitioner establishes the Beneficiary's eligibility under this criterion, then it will have submitted the requisite initial evidence for O-1 classification. The petitioner asserts that the Beneficiary received four awards which satisfy this criterion. The Director determined that the Petitioner did not establish the Beneficiary's eligibility under this criterion and, upon review, we agree with the Director's determination. The record contains insufficient evidence regarding the application, nominating, or selection process used by the issuing bodies, the eligibility criteria, or the extent to which the winners of such awards are recognized beyond the issuing body.

The Petitioner has submitted evidence of the following awards and nomination related to the Beneficiary's animated short film [REDACTED]

1. [REDACTED] Best Animation (2010)
2. [REDACTED] Award of Merit (2015)
3. [REDACTED], Best Music Score (2017)
4. [REDACTED] Nomination for Best Animation Short (2018)

The Petitioner documented the Beneficiary's receipt of the [REDACTED] and [REDACTED] awards. The record contains articles and general information about the inaugural [REDACTED] event in 2010, including a press release from its sponsors, France's [REDACTED]. According to this item, the [REDACTED] was designed for young creators of all disciplines under 30 to display their art at various French cultural heritage sites selected for rehabilitation. The evidence shows that the Beneficiary participated in a four-day animation festival at [REDACTED] in [REDACTED] which ended in a presentation of prizes. A photo advertisement published in the French publication *20 Minutes* contains a photograph of the Beneficiary at the award ceremony, and an article in the French newspaper *La Depeche* mentions her receipt of the award at the upcoming prize presentation.³ On appeal, the Petitioner urges that the award meets this criterion because the

§ 214.2(o)(3)(iv)(B)(6). Accordingly, we will not address this criterion in the decision.

³ These published materials and several others are foreign language originals with translations. While not addressed by the Director, the Petitioner submitted translations that do not comport with the relevant regulation. Any document in a foreign language must be accompanied by a full English language translation. 8 C.F.R. § 103.2(b)(3). The translator must certify that the English language translation is complete and accurate, and that the translator is competent to translate from the foreign language into English. *Id.* Instead these translations are uncertified. Because the Petitioner

_____ event was government-sponsored and, thus, “had a large impact nationwide, since it was covered by all the major media outlets of France (*France Television, Radio France, Evene, Le Monde, 20 Minutes, etc.*)”

The Petitioner has not established that receipt of the Best Animation award at the _____ or an Award of Merit at _____ constitutes a significant national or international award or prize comparable to an Academy Award, the example in the regulations. For example, the Academy Award nominations are widely publicized within the movie industry and mainstream media, the awards ceremony is televised on a major network, and the awards themselves are considered among the highest achievements attainable in the performing arts. The Petitioner has not provided documentation showing that those whose works are selected for a prize at _____ or _____ receive similar recognition.

The Petitioner also did not submit information or evidence about the selection process for the awards. As noted by the Director, competition for the _____ award was, by definition, not open to all artists, but to a restricted segment of artists under age 30. The Petitioner has not documented that this award was open all artists working in the field, rather than limited to young artists. While the limited pool of candidates does not necessarily preclude the award from qualifying, it is the Petitioner’s burden to show that the honor is a significant national or international award. Regarding the _____ award, the Petitioner provided a letter from _____ co-director, _____ stating that the inaugural festival’s 34 films were judged by animation industry professionals, and [the Beneficiary’s] film _____ was given an Award of Merit for being “among the best.”

In addition, the testimonial evidence does not establish that such awards are comparable in importance to the highly recognizable awards mentioned in the regulations. For example, _____, the Beneficiary’s animation instructor at _____ provides a third letter on appeal, in which he likens participation in the _____ event to “being part of the Olympic[s] of Art,” because it “was open to French and worldwide artists and, from what I have heard, covered intensely.” However, _____ does not state the basis of his knowledge of the significance of the Beneficiary’s award, and the record does not contain corroborating evidence in support of his assertion about the significance of the award. _____ letter alone does not provide sufficient context in which to evaluate the significance of the beneficiary’s awards.

Regarding the _____ award, Petitioner submitted an award certificate showing the Beneficiary’s film received for Best Music Score in 2017. The record indicates, however, that _____, and not the Beneficiary, wrote the film’s music score, therefore the evidence does not demonstrate the Beneficiary was the recipient of this award. Finally, the Petitioner submits on appeal a nomination her film received in the _____ in 2018. However, this nomination was received after the date the petition was filed on July 12, 2017. The Petitioner must establish that all eligibility requirements for the immigration benefit have been satisfied from the

did not submit a properly certified English language translation of the document, we cannot meaningfully determine whether the translated material is accurate and thus supports the Petitioner’s claims.

time of the filing and continuing through adjudication. 8 C.F.R. § 103.2(b)(1). Regardless, we note that the record does not document that either a Best Music Score award from the [REDACTED] or a nomination from the [REDACTED] is a qualifying award under this criterion.

Based on the foregoing, the Petitioner has not established that the Beneficiary has won a significant national or international award or prize in her field. Therefore, the petitioner must establish the Beneficiary's eligibility under at least three of the six evidentiary criteria set forth at 8 C.F.R. § 214.2(o)(3)(iv)(B). We will address these criteria below.

B. Alternative Criteria

The Petitioner alternately seeks to demonstrate the Beneficiary's sustained acclaim and recognition of achievements through evidence corresponding to at least three of the six regulatory criteria at 8 C.F.R § 214.2(o)(3)(iv)(B).

Evidence that the alien has performed, and will perform, services as a lead or starring participant in productions or events which have a distinguished reputation as evidenced by critical reviews, advertisements, publicity releases, publications, contracts, or endorsements. 8 C.F.R. § 214.2(o)(3)(iv)(B)(1).

Petitioner maintains that the Beneficiary satisfies this criterion based upon her role in [REDACTED] 2010, her past animation design work, and her proposed work with the Petitioner. The Director found that the Petitioner did not establish that the Beneficiary meets this criterion, and we agree with the Director's determination. As previously discussed, the Petitioner provided articles and advertisements about the inaugural [REDACTED] 2010 cultural event, showing that Beneficiary participated in an animation festival at [REDACTED] in [REDACTED] one of nine cultural heritage sites in cities "in mainland France and overseas." The Beneficiary's film [REDACTED] was one of 15 short films screened at the four-day animation festival, which ended in a ceremony presenting awards to the three winners. The promotional materials do not single out the Beneficiary as having performed as a lead or starring participant in [REDACTED] 2010. A photo advertisement published in the French publication *20 Minutes* contains a photograph of the Beneficiary at the award ceremony, and an article in the French newspaper *La Depeche* mentions her receipt of the award at the upcoming prize presentation. Other advertisements and articles about [REDACTED] do not mention her by name as a participant in the event. Upon review, those exhibits confirm that the Beneficiary was one of many artists in the event, and that her role did not rise to the level of a lead or starring role within the scope of the production.

The Petitioner also submitted several testimonial letters, some of which contain information that is relevant to this criterion. [REDACTED] an animator, provided two letters. In his second letter he explains that the Beneficiary is helping on his latest movie [REDACTED] as a background assistant, a position he described as "really making a difference" on his self-produced movie set. He indicated that her work was "crucial" in helping to set the ambience of the movie backgrounds, and credited her with the film's Grand Finale scene visual. [REDACTED] of [REDACTED] states that the Beneficiary worked at his studio as an intern in 2013, where she was part of the

production team on the animated holiday special [REDACTED] on VH1. He called her an “important asset,” and stated she worked on several key backgrounds and assisted the animation of numerous scenes.

[REDACTED] owner of [REDACTED] states that in 2017 the Beneficiary collaborated on the exhibition, [REDACTED] a solo exhibition of the works of [REDACTED] one of its main represented artists. The Beneficiary’s created a promotional animated video which was played during the exhibition. [REDACTED] describes the video as “an important part of the show” and “truly magical,” as it “brought life to the characters and portrayed them in a way that the artist had dreamed to see in action.” The authors of those letters do not suggest that she was a main artist for their productions, consistent with a lead or starring level of participation. In addition, the regulation requires evidence in the form of critical reviews, advertisements, publicity releases, publications, contracts, or endorsements. We will consider the letters below in our discussion of the criterion at 8 C.F.R. § 214.2(o)(3)(iv)(B)(5).

Next, in order to meet this criterion, the Petitioner must establish that the Beneficiary *will* perform services as a lead or starring participant in productions or events which have a distinguished reputation upon approval of the petition. The submitted Project List indicates that the Beneficiary will work for the Petitioner on several works including the cartoons and animated shorts [REDACTED]. The Petitioner has not established that the Beneficiary’s prospective role as an animation designer would be leading for these productions or events. Further, it has not submitted critical reviews, advertisements, publicity releases, publications, or other evidence to establish that the upcoming events have a distinguished reputation.

On appeal the Petitioner submits the above-referenced nomination the Beneficiary received in the [REDACTED] 2018 for her short film [REDACTED] as evidence that “qualifies the Beneficiary as starring in an upcoming distinguished major event.” However, as previously discussed, this nomination was received after the date the petition was filed on July 12, 2017. The Petitioner must establish that all eligibility requirements for the immigration benefit have been satisfied from the time of the filing and continuing through adjudication. 8 C.F.R. § 103.2(b)(1).

The Petitioner also asserts that the Beneficiary will be employed by the company [REDACTED] as “Art Director” for the feature film [REDACTED] a project which is still under development. The Petitioner provides an e-mails dated 2017 and 2018 from [REDACTED] of [REDACTED] expressing interest in having the Beneficiary “lead the art team” on the feature film [REDACTED] and stating “we are now ready to pursue with its production.”⁴ While such a role could qualify as events in which the Beneficiary will perform services as a lead or starring participant, the Petitioner has not submitted critical reviews, advertisements, publicity releases, publications, or other exhibits to confirm that the [REDACTED] film has a distinguished reputation. Based on the foregoing, the submitted evidence does not satisfy this criterion.

⁴ We note that the [REDACTED] production was not included on the submitted Project List of the Beneficiary’s activities during the requested employment period.

Evidence that the alien has achieved national or international recognition for achievements evidenced by critical reviews or other published materials by or about the individual in major newspapers, trade journals, magazines, or other publications.
8 C.F.R. § 214.2(o)(3)(iv)(B)(2).

To meet this criterion, the Petitioner cites published material by and pertaining to the Beneficiary. The Director determined, and we agree, that those materials did not satisfy this criterion. The Petitioner submitted translations of two articles pertaining to the Beneficiary which were published in French publications. As discussed previously, these foreign language documents do not comport with the regulation at 8 C.F.R. § 103.2(b)(3), since they are accompanied by uncertified translations. Thus, we cannot meaningfully determine whether the translated material is accurate and supports the Petitioner's claims. Regardless, the above-mentioned photo advertisement of the Beneficiary published in the French newspaper *20 Minutes* and the article published in *Le Depeche* do not appear to be specifically "about" the Beneficiary but about the [REDACTED] cultural festival.

The Petitioner also provided evidence that the Beneficiary's online gallery, [REDACTED], publishes her work on the website www.deviantart.com. It submitted statistics showing how many "views" her gallery received since 2015 for her cartoons and animated work including [REDACTED]. This evidence does not show that the website qualifies as major media, in the absence of circulation and distribution data for the website.⁵ The Petitioner has, therefore, not established that the Beneficiary satisfies this evidentiary criterion.

Evidence that the alien has performed, and will perform, in a lead, starring, or critical role for organizations and establishments that have a distinguished reputation evidenced by articles in newspapers, trade journals, publications, or testimonials.
8 C.F.R. § 214.2(o)(3)(iv)(B)(3).

The Petitioner asserts that the Beneficiary meets this criterion based on her previous employment for the organizations [REDACTED] and the [REDACTED], and her proposed employment with [REDACTED]. The Director determined, and we agree, that the evidence of record does not establish that the Beneficiary meets this criterion.

In three letters, [REDACTED] CEO of [REDACTED] and former creative director of [REDACTED] states that the Beneficiary's work exceeded expectations as senior illustrator and lead stop-motion animator on social media marketing campaigns for [REDACTED] and [REDACTED]. He states that, under his supervision, the Beneficiary was instrumental in creating and leading the company's animation department, enlarging the company's expertise and bringing it more clients. He describes her work as "critical to the success we collected that year." [REDACTED] former COO/CFO of [REDACTED] credits the Beneficiary with retaining and growing the creative department's accounts for [REDACTED] and [REDACTED]. While the letters provide some information regarding the

⁵ To qualify as major media, the publication should have significant national or international distribution.

Beneficiary's duties in the creative department at [REDACTED] they do not explain how the Beneficiary performed in a leading or a critical role for that organization. The submitted evidence does not establish, for example, how her position fit within the overall hierarchy of the organization. A leading role should be apparent by its position in the overall organizational hierarchy and should be accompanied by the role's matching duties. A critical role should be evident from the Beneficiary's impact on the organization or the establishment's activities. The Beneficiary's performance in this role should establish whether the role was critical for an organization or establishment as a whole.

The reference letters submitted by the Petitioner are not without weight and have been considered above. USCIS may, in its discretion, use as advisory opinions statements submitted as expert testimony. *See Matter of Caron International*, 19 I&N Dec. 791, 795 (Comm'r. 1988). However, USCIS is ultimately responsible for making the final determination regarding a foreign national's eligibility for the benefit sought. In addition, such letters from experts supporting the petition is not presumptive evidence of eligibility; USCIS may evaluate the content of those letters as to whether they support the foreign national's eligibility. Upon review, the letters do not detail how the Beneficiary performed in a leading or a critical role for [REDACTED] organization as a whole.

As additional support for this criterion the Petitioner provided the above-mentioned letter from [REDACTED] describing the Beneficiary's animated promotional video as "an important part" of the [REDACTED] exhibition, [REDACTED] however, does not assert or demonstrate that the Beneficiary played a lead, starring, or critical role for her gallery.

The Petitioner also has not submitted evidence to establish that the Beneficiary's in roles in future productions are leading, starring or critical for organizations or establishments that enjoy a distinguished reputation in the field. The employment agreement establishes that the Beneficiary will work as the Petitioner's animation designer. The Beneficiary's Project List for the intended period of employment includes producing the cartoons and animated shorts [REDACTED] and [REDACTED]. The Petitioner's Production Strategy document indicates that its goal is "to produce and create multimedia entertainment content" like the Beneficiary's, for release on monetized platforms such as YouTube. Its evidence included a signed proposal with [REDACTED] in which the Petitioner "agrees on engaging a collaboration . . . for future promotional campaigns," and providing services including animation, illustration, and graphic design.

Letters from [REDACTED] CEO of [REDACTED] confirms that he is exploring a collaboration with the petitioning company for it to produce animation for [REDACTED] clients, and for [REDACTED] to promote the Beneficiary's own projects, [REDACTED] and [REDACTED]. A letter from [REDACTED] co-founder and CEO of the petitioning company, indicates that the [REDACTED] proposal is still "in negotiation."

Upon review, the Petitioner has not demonstrated how the Beneficiary's role as a creator and producer of animation, illustration, and graphic design on a cartoon, short film, or promotional campaign rises to the level of a lead, starring or critical role for the project's distribution company.

While the Petitioner has indicated the Beneficiary's proposed duties on upcoming cartoons, film projects, and promotional campaigns, the submitted evidence does not describe how the Beneficiary will contribute to [REDACTED] as a whole or how her position fits within the overall hierarchy of the company.

Finally, the Petitioner has not claimed or established that it or [REDACTED] enjoys a distinguished reputation in the Beneficiary's field. The Petitioner submitted information from [REDACTED] homepage on www.linkedin.com, stating that the company "is a media lab dedicated for creating world-class videos for startups." The plain language of this criterion requires the submission of evidence in the form of newspapers, trade journals, publications, or testimonials. Statements made without supporting documentation are of limited probative value and are not sufficient to meet the burden of proof in these proceedings. In light of the above, the Petitioner has not submitted evidence to satisfy this evidentiary criterion.

Evidence that the alien has a record of major commercial or critically acclaimed successes as evidenced by title, rating, standing in the field, box office receipts, motion pictures or television ratings, and other occupational achievements reported in trade journals, major newspapers, or other publications. 8 C.F.R. § 214.2(o)(3)(iv)(B)(4).

The Director determined that the record established that the Beneficiary meets this criterion, without specifically addressing the evidence upon which this conclusion was based. Upon review of the record we withdraw the Director's determination. The plain language of this criterion requires a record of major commercial or critically acclaimed successes as evidenced by such indicators as title, rating, standing in the field, box office receipts, motion picture or television ratings, and other occupational achievements reported in trade journals, major newspapers, or other publications. The record does not include evidence of documented "receipts" showing that the petitioner achieved commercial successes in the performing arts in a manner consistent with sustained national or international acclaim.

The Petitioner provided favorable commentary from viewers of her cartoons [REDACTED] and [REDACTED] from readers on YouTube and the website DeviantArt. Favorable reviews of the Beneficiary's work alone are not sufficient evidence of a record of "major critically acclaimed success;" the Petitioner did not provide objective evidence to establish the significance of these favorable reviews, thus the Petitioner has not established that they constitute a "major" success as required by the plain language of this criterion.

In addition, the record contains e-mail correspondence and a signed distribution agreement between the Beneficiary and [REDACTED] dated 2017 for the Beneficiary's short film [REDACTED] to be distributed to broadcast television networks. In his previously mentioned support letters, [REDACTED] asserts that her recognition by peers in her industry is reflected by the fact that her short film [REDACTED] is represented by [REDACTED] with a plan to screen it. Again, while this evidence suggests that the film distribution company was investing in the film in the hope that it would

be a success upon its release and distribution, this evidence does not support a finding that the film was a critically acclaimed success.

As previously discussed, the Petitioner has not shown that the Beneficiary's receipt of the Best Animation award at the [REDACTED] 2010 and an Award of Merit at [REDACTED] 2015 are an indicator of a record of commercial or critical success. Assuming that correlation had been established, the record does not include evidence that such critical or commercial success was memorialized in trade journals, major newspapers, or other publications such that her achievement was acknowledged in the industry at-large.

In light of the above, the Petitioner has not established that the Beneficiary satisfies the plain language requirements of this evidentiary criterion.

Evidence that the alien has received significant recognition for achievements from organizations, critics, government agencies, or other recognized experts in the field in which the alien is engaged. Such testimonials must be in a form which clearly indicates the author's authority, expertise, and knowledge of the alien's achievements. 8 C.F.R. § 214.2(o)(3)(iv)(B)(5).

As noted above, the Petitioner submitted numerous testimonial letters in support of the petition. We determine that the submitted testimonials and other documentary evidence do not satisfy this criterion.⁶ This evidence includes letters from the Beneficiary's animation instructors at [REDACTED]. [REDACTED] describes her as an "exceptional" animator and designer whose animated films are an "incredible" accomplishment. [REDACTED] states that she always produced work that "surprised," "delighted," and exceeded expectations. The above-discussed letters from [REDACTED] describe the Beneficiary as one of his best students, an "excellent young talent" whose "attention to detail" has earned her the respect of classmates and peers in the animation department. He states that she created an animated opening for a new show that he is developing with [REDACTED] of the [REDACTED] indicates that the Beneficiary contributed "incredible" motion graphic and animation work on an advertising campaign for the company.

The Petitioner also provided letters from additional colleagues of the Beneficiary. [REDACTED] a commercial filmmaker with [REDACTED] hired the Beneficiary to create drawings for the film [REDACTED] and called her one of the finest conceptual artists with whom he has worked. [REDACTED] a sound designer for several YouTube animation channels, describes her video-game-based comic [REDACTED] as "one of the best" with a growing following on YouTube. The above-mentioned letters from [REDACTED] praise the Beneficiary's storytelling ability and "sharp sense of seizing moods and feelings in her drawings."

⁶ While we discuss only a sampling of the submitted letters, we have reviewed and considered each one.

The letters primarily discuss the Beneficiary's innate talent and artistry rather than her achievements as an animation designer. The letters do not explain in factual terms the Beneficiary's achievements in the field.⁷ Further, as previously noted, the Petitioner has provided confirmation that the Beneficiary's film [REDACTED] won the Best Animation award at the [REDACTED] 2010 and an Award of Merit at [REDACTED] 2015. As discussed above, the Petitioner did not include sufficient supporting explanation or documentation that animators whose films are selected for an [REDACTED] Best Animation award of [REDACTED] Award of Merit receive recognition within the animation industry. As such, that the record does not demonstrate that such selections constitute "significant recognition for achievements."

Without further information and evidence, the above-referenced letters are not sufficient to demonstrate that the Beneficiary's achievements have received significant recognition. As previously stated, USCIS may, in its discretion, use as advisory opinions statements submitted as expert testimony. *See Caron*, 19 I&N Dec. at 795. However, USCIS is ultimately responsible for making the final determination regarding a foreign national's eligibility for the benefit sought. In addition, such letters from experts supporting the petition is not presumptive evidence of eligibility; USCIS may evaluate the content of those letters as to whether they support the foreign national's eligibility.

It remains the Petitioner's burden to show the Beneficiary's significant recognition for achievements in the field. As discussed, the testimonial evidence submitted does not meet this burden. Overall, while the Beneficiary has earned the respect of her colleagues and mentors, the material is insufficient to establish that she has received significant recognition for achievements in the field. The Petitioner has, therefore, not established that the Beneficiary satisfies this evidentiary criterion.

C. Prior Approval

The record indicates that USCIS has previously approved a petition for O-1 status filed on behalf of the Beneficiary. In the present matter, the Director reviewed the record of proceeding and concluded that the Petitioner did not meet all eligibility requirements for the requested classification. Based on the lack of required evidence of eligibility in the current record, we find that the Director was justified in denying the instant petition. We are not required to approve applications or petitions where eligibility has not been demonstrated because of prior approvals that may have been erroneous. *See, e.g., Matter of Church Scientology International*, 19 I&N Dec. 593, 597 (Comm'r. 1988).

Furthermore, our authority over the service centers is comparable to the relationship between a court of appeals and a district court. Even if a service center director has approved a nonimmigrant petition on behalf of the beneficiary, we are not bound to follow the contradictory decision of a

⁷ We also note that all of the letters submitted are from the Beneficiary's own current and former colleagues and teachers, and therefore do not demonstrate significant recognition outside of that circle.

Matter of A-S- LLC

service center. *Louisiana Philharmonic Orchestra v. INS*, No. 98-2855, 2000 WL 282785, *1, *3 (E.D. La.), *aff'd*, 248 F.3d 1139 (5th Cir. 2001), *cert. denied*, 122 S.Ct. 51 (2001).

III. CONCLUSION

For the reasons discussed above, the Petitioner has not established that the Beneficiary is eligible for the O-1 visa classification as a foreign national with extraordinary ability in the arts.

ORDER: The appeal is dismissed.

Cite as *Matter of A-S- LLC*, ID# 1734932 (AAO Oct. 31, 2018)