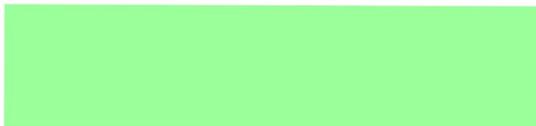


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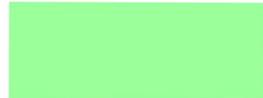


U.S. Citizenship
and Immigration
Services



DATE: JAN 28 2015

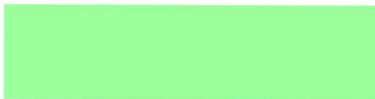
Office: TEXAS SERVICE CENTER FILE:



IN RE:

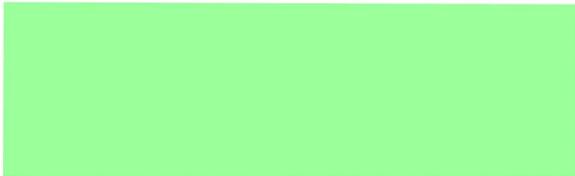
Petitioner:

Beneficiary:



PETITION: Immigrant Petition for Alien Worker as an Alien of Extraordinary Ability Pursuant to Section 203(b)(1)(A) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(1)(A)

ON BEHALF OF PETITIONER:



INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case. This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions.

Thank you,

A handwritten signature in black ink, appearing to read "Ron Rosenberg".

 Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The Director, Texas Service Center, denied the immigrant visa petition. The petitioner subsequently filed a motion to reopen and reconsider, which the director dismissed. The matter is now before the Administrative Appeals Office (AAO) on appeal. We will sustain the appeal.

The petitioner seeks classification as an “alien of extraordinary ability” in athletics, pursuant to section 203(b)(1)(A) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(1)(A), which makes visas available to aliens 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 determined that the petitioner had not satisfied the initial evidence requirements set forth at 8 C.F.R. § 204.5(h)(3), which requires documentation of a one-time achievement or evidence that meets at least three of the ten regulatory criteria.

On appeal, the petitioner submits a brief. The petitioner asserts that she meets the regulatory criteria for classification as an alien of extraordinary ability. For the reasons discussed below, we find that the petitioner meets the statutory and regulatory requirements for the classification sought.

I. LAW

Section 203(b) of the Act states, in pertinent part, that:

(1) Priority workers. -- Visas shall first be made available . . . to qualified immigrants who are aliens described in any of the following subparagraphs (A) through (C):

(A) Aliens with extraordinary ability. -- An alien is described in this subparagraph 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.

U.S. Citizenship and Immigration Services (USCIS) and legacy Immigration and Naturalization Service (INS) have consistently recognized that Congress intended to set a very high standard for individuals seeking immigrant visas as aliens of extraordinary ability. *See* H.R. 723 101st Cong., 2d Sess. 59 (1990); 56 Fed. Reg. 60897, 60898-99 (Nov. 29, 1991). 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. *Id.*; 8 C.F.R. § 204.5(h)(2).

The regulation at 8 C.F.R. § 204.5(h)(3) requires that the petitioner demonstrate the alien's sustained acclaim and the recognition of his or her achievements in the field. Such acclaim must be established either through evidence of a one-time achievement (that is, a major, internationally recognized award) or through the submission of qualifying evidence under at least three of the ten categories of evidence listed at 8 C.F.R. § 204.5(h)(3)(i)-(x).

The submission of evidence relating to at least three criteria does not, in and of itself, establish eligibility for this classification. *See Kazarian v. USCIS*, 596 F.3d 1115 (9th Cir. 2010) (discussing a two-part review where the evidence is first counted and then, if satisfying the required number of criteria, considered in the context of a final merits determination). *See also Rijal v. USCIS*, 772 F.Supp.2d 1339 (W.D. Wash. 2011) (affirming USCIS' proper application of *Kazarian*), *aff'd*, 683 F.3d 1030 (9th Cir. 2012); *Visinscaia v. Beers*, 4 F.Supp.3d 126, 131-32 (D.D.C. 2013) (finding that USCIS appropriately applied the two-step review); *Matter of Chawathe*, 25 I&N Dec. 369, 376 (AAO 2010) (holding that the "truth is to be determined not by the quantity of evidence alone but by its quality" and that USCIS examines "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").

II. ANALYSIS

A. Evidentiary Criteria

The Form I-140, Immigrant Petition for Alien Worker, was filed on September 6, 2013. The petitioner seeks classification as an alien with extraordinary ability as a competitive runner in track and field events. The director determined that the petitioner had met the categories of evidence at § 204.5(h)(3)(i) and (iii). In addition, we find that the petitioner's evidence meets the additional category of evidence at 8 C.F.R. § 204.5(h)(3)(ii). Specifically, the petitioner submitted documentation of her membership on the [REDACTED] teams representing [REDACTED] in [REDACTED]. Accordingly, the petitioner has submitted the requisite initial evidence, in this case, evidence that satisfies three of the ten regulatory criteria.

B. Final Merits Determination

We will next conduct a final merits determination that considers all of the evidence in the context of whether or not the petitioner has demonstrated: (1) a "level of expertise indicating that the individual is one of that small percentage who have risen to the very top of the[ir] field of endeavor," 8 C.F.R. § 204.5(h)(2); and (2) "that the alien has sustained national or international acclaim and that his or her achievements have been recognized in the field of expertise." Section 203(b)(1)(A) of the Act; 8 C.F.R. § 204.5(h)(3). *See also Kazarian*, 596 F.3d at 1119-20.

In the present matter, the petitioner has submitted extensive documentation of her achievements as a competitive runner and has demonstrated a "career of acclaimed work in the field" as contemplated by Congress. H.R. Rep. No. 101-723, 59 (Sept. 19, 1990). The submitted evidence, in the aggregate, is

sufficient to demonstrate the petitioner's sustained national and international acclaim as an athlete and that her achievements have been recognized in the field of expertise. In addition, the submitted documentation shows that the petitioner is among that small percentage who has risen to the very top of the field of endeavor. For example, the petitioner submitted medals and event results demonstrating that she received nationally and internationally recognized awards as a competitive runner. The petitioner also submitted evidence showing that she competed at the [redacted] in [redacted] and placed fourth as a member of [redacted] team. The petitioner's college coach, [redacted], Head Track and Field Coach at the [redacted] at [redacted], summarized her athletic accomplishments:

[The petitioner] was a member of the [redacted]. In 2009 she ran in [redacted] team in [redacted] that qualified for finals and placed 6th overall. [The petitioner] reached a semifinal stage in women's [redacted] South Korea. In [redacted] [the petitioner] ran 3rd leg for [redacted] that placed 4th overall with a new [redacted] national record time. [The petitioner] has also medaled multiple times in [redacted] during her career as a sprinter.

Furthermore, the petitioner submitted a letter from the Secretary General of the [redacted] [redacted] stating that the petitioner has been shortlisted as one of [redacted] athletes for the [redacted] in [redacted] Brazil. In light of the evidence discussed above and other corroborating evidence of record, the petitioner's achievements in the aggregate are commensurate with sustained national and international acclaim at the very top of her field. Lastly, our finding of eligibility in this matter is consistent with *Matter of Price*, 20 I&N Dec. 953, 955 (Assoc. Comm'r 1994).

III. CONCLUSION

In review, the petitioner has submitted evidence qualifying under at least three of the ten categories of evidence and established a "level of expertise indicating that the individual is one of that small percentage who have risen to the very top of the[ir] field of endeavor" and "sustained national or international acclaim." Her achievements have been recognized in her field of expertise. The petitioner has established that she seeks to continue working in the same field in the United States. The petitioner has established that her entry into the United States will substantially benefit prospectively the United States. Therefore, the petitioner has established eligibility for the benefit sought under section 203 of the Act.

In visa petition proceedings, it is the petitioner's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). Here, that burden has been met.

ORDER: The appeal is sustained and the petition is approved.