



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

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

MATTER OF B-L-

DATE: OCT. 28, 2015

APPEAL OF TEXAS SERVICE CENTER DECISION

PETITION: FORM I-140, IMMIGRANT PETITION FOR ALIEN WORKER

The Petitioner, a table tennis player, seeks classification as an individual “of extraordinary ability” in athletics. *See* Immigration and Nationality Act (the Act) § 203(b)(1)(A), 8 U.S.C. § 1153(b)(1)(A). The Director, Texas Service Center, denied the petition. The matter is now before us on appeal. The appeal will be sustained.

The classification the Petitioner seeks makes visas available to foreign nationals 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 satisfaction of at least three of the ten regulatory criteria.

On appeal, the Petitioner submits an appellate brief and additional documentation, asserting in the brief that he meets the criteria at 8 C.F.R. § 204.5(h)(3)(i), (ii) and (iii). For the reasons discussed below, the record establishes eligibility for the exclusive classification sought. Specifically, he has satisfied at least three of the ten regulatory criteria set forth in the regulations at 8 C.F.R. § 204.5(h)(3)(i)-(x), and demonstrated that he is one of the small percentage who is at the very top in the field of endeavor, and that he has sustained national or international acclaim. *See* 8 C.F.R. § 204.5(h)(2), (3). The Petitioner has shown his eligibility for the petition.

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.

The term "extraordinary ability" refers only to those individuals in that small percentage who has risen to the very top of the field of endeavor. 8 C.F.R. § 204.5(h)(2). The 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 achievements in the field through a one-time achievement (that is, a major, internationally recognized award). If that petitioner does not submit this documentation, then he must provide sufficient qualifying evidence that meets at least three of the ten criteria listed at 8 C.F.R. § 204.5(h)(3)(i)-(x).

Satisfaction of at least three criteria, however, 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 documentation is first counted and then, if meeting 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 U.S. Citizenship and Immigration Services' (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 Criteria¹

Under the regulation at 8 C.F.R. § 204.5(h)(3), a one-time achievement that is a major, internationally recognized award constitutes qualifying initial evidence. In this case, the Petitioner has not asserted or documented that he is the recipient of a major, internationally recognized award at the level similar to that of the Olympic Gold Medal. As such, the Petitioner must satisfy at least three of the ten criteria under the regulations at 8 C.F.R. § 204.5(h)(3)(i)-(x) to meet the basic eligibility requirements.

¹ We have reviewed all of the evidence the Petitioner has submitted and will address those criteria the Petitioner asserts that he meets or for which the Petitioner has submitted relevant and probative evidence.

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The Petitioner has established that he meets the criteria under the regulations at 8 C.F.R. § 204.5(h)(3)(i), (ii), and (iii). First, the Petitioner was a semi-finalist and received a [redacted] place finish in the [redacted] at the [redacted] Table Tennis Open. To secure their [redacted] place finish, the Petitioner and his partner won a match against [redacted] both of whom were on the [redacted] National Team and World Team. According to an online printout from [redacted] which is part of the U.S. Olympic Committee, the [redacted] Table Tennis Open is [redacted] largest table tennis tournament,” attracting national and international athletes. In [redacted] the Petitioner received a [redacted] finish in the team event at the [redacted] Table Tennis Invitation Tournament, an International Table Tennis Federal sanctioned tournament, as noted in a June 17, 2014, certificate from the [redacted]. During the [redacted] season, the Petitioner won a [redacted] in the team event at the [redacted] Table Tennis Championships, a competition covered in the [redacted] media. The record, thus, contains prizes and awards that are nationally or internationally recognized prizes or awards for excellence in the sport of table tennis, and, therefore, meet the criterion under the regulation at 8 C.F.R. § 204.5(h)(3)(i).

Second, in 2007, the Petitioner was selected to join one of the two [redacted] Table Tennis Teams. A March 26, 2007, certificate from [redacted] provided that the Petitioner became a member of the [redacted] Team “[i]n order [for [redacted] to make preparation for the 2008 Olympics” and to “speed up the reserve talents cultivation.” A June 8, 2014, certificate from the [redacted] for Table Tennis stated, the [redacted] Table Tennis Teams have a “total of around 50 people, who are top and promising athletes” and who “have been selected via strict standards and competitions.” According to [redacted] the table tennis head coach at the [redacted], as a member of the [redacted] Team, the Petitioner represented [redacted] at a number of international competitions. The record contains sufficient evidence showing membership in one of the two [redacted] Teams, which required outstanding achievements of its members, as judged by recognized national or international experts in their disciplines or fields. The Petitioner has therefore met the criterion under the regulation at 8 C.F.R. § 204.5(h)(3)(ii).

Finally, the Petitioner provided a 2008 narrative introducing him that appeared in [redacted] which featured his experience and accomplishments as a table tennis player. A June 17, 2014, certificate from the [redacted] Table Tennis Association indicated that the [redacted] “is the only magazine specialized in table tennis in [redacted] and has a monthly “circulation of 500,000 books.” In addition, the record includes a 2013 article entitled [redacted] posted on [redacted] website. The article chronicled the Petitioner’s table tennis training and achievements. According to a June 10, 2014, document from the [redacted], the [redacted] website is [redacted] earliest national-level English website” and “receives over 52,000,000 page views daily.” These materials, published in professional publications or major media, are about the Petitioner, relating to his work as a table tennis player, thereby meeting the criterion at 8 C.F.R. § 204.5(h)(3)(iii).

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B. Final Merits Determination

As the Petitioner has submitted the requisite initial evidence, we will conduct a final merits determination that considers the entire record in the context of whether or not the Petitioner has demonstrated: (1) that he enjoys a level of expertise indicating that he is one of a small percentage who have risen to the very top of the field of endeavor, and (2) that he has sustained national or international acclaim and that his achievements have been recognized in the field of expertise. Section 203(b)(1)(A) of the Act; 8 C.F.R. §§ 204.5(h)(2), (3); *see also Kazarian*, 596 F.3d at 1119-20. Based on the filings and consistent with *Matter of Price*, 20 I&N Dec. 953 (Act. Assoc. Comm'r 1994), the Petitioner has made the requisite showing.

As discussed, the Petitioner has achieved success in nationally and internationally recognized tournaments and competitions; has been a member of the [REDACTED] a country that is known to dominate the sport of table tennis; and has been featured in professional publications and major media. In addition, the Petitioner is a top ranking table tennis player in the United States. At the time of filing, in January [REDACTED] he ranked number [REDACTED] among the top [REDACTED] U.S. men table tennis players. The response to the Director's request for evidence (RFE) included documents showing that as of April [REDACTED] the Petitioner ranked number [REDACTED] among the top [REDACTED] U.S. men table tennis players. These rankings are consistent with a finding that he is one of a small percentage who have risen to the very top of the sport of table tennis.

Moreover, the Petitioner has been invited to train with the national teams of a number of countries. These invitations are consistent with a finding that he has sustained national and international acclaim. According to a May 7, [REDACTED] letter from [REDACTED], [REDACTED] in preparation for the [REDACTED] Olympic Games, the [REDACTED] Team invited the Petitioner to [REDACTED] to train, because the Petitioner was one of the "'top level' training partners from [REDACTED] who could 'help [the [REDACTED] players achieve excellent results at the Olympics.'" [REDACTED] the former head coach of the [REDACTED] Team, stated that the team also invited the Petitioner to participate in its World Table Tennis Championships training. In addition, the national teams of Belgium and Poland have similarly asked to train with the Petitioner to improve the teams' skill level and performance in international competitions.

Furthermore, the reference letters from established international table tennis players and coaches confirm the Petitioner's sustained national and international acclaim. For example, according to [REDACTED] the table tennis gold medalist at the [REDACTED] Olympic Games, the Petitioner is "an excellent ping-pong player" and "a national top-tier athlete of table tennis." [REDACTED] the gold medalist in the team event at the [REDACTED] and a member of the [REDACTED] U.S. Olympic Team, indicated that the Petitioner is "an outstanding international table tennis player . . . in the [REDACTED] [and] the international table tennis community." [REDACTED] further noted that the Petitioner "possesses [the] world's leading professional table tennis skills and rich competing experiences." [REDACTED] the [REDACTED] former head coach, stated that the Petitioner "is an excellent international level player" who possesses "rare advanced techniques in the world of table tennis today." [REDACTED] the [REDACTED] World's Men's Doubles Champion, said that the

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Petitioner is “a world-class professional table tennis player” who “can greatly improve table tennis in the U[.]S[.] and push forward the development of the sport in America.”

The record in the aggregate, including the Petitioner’s competitive history and ranking, membership in the [REDACTED] Team, published materials relating to his work as a table tennis player, and his involvement with a number of national table tennis teams, demonstrates that he enjoys a level of expertise that is consistent with a finding that he is one of a small percentage who have risen to the very top of the field of endeavor, that he has sustained national or international acclaim, and that his achievements have been recognized in the field of expertise. *See* Section 203(b)(1)(A) of the Act; 8 C.F.R. §§ 204.5(h)(2), (3); *see also Kazarian*, 596 F.3d at 1119-20. Accordingly, the Petitioner has established by a preponderance of the evidence that he is eligible for the exclusive classification sought.

III. CONCLUSION

The documentation submitted in support of a claim of extraordinary ability must demonstrate that the Petitioner has achieved sustained national or international acclaim and is one of the small percentage who have risen to the very top of his or her field of endeavor.

The Petitioner has filed qualifying evidence under at least three of the ten evidentiary criteria and shown that he has a “level of expertise indicating that [he] is one of that small percentage who have risen to the very top of the field of endeavor” and “sustained national or international acclaim.” The Petitioner’s achievements have been recognized in his field of expertise. The Petitioner has established that he seeks to continue working in the same field in the United States, and that his entry into the United States will substantially benefit prospectively the United States. Therefore, the Petitioner has demonstrated his 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, the Petitioner has met that burden.

ORDER: The appeal is sustained.

Cite as *Matter of B-L-*, ID# 14250 (AAO Oct. 28, 2015)