



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

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

MATTER OF K-S-Y-

DATE: MAR. 9, 2016

APPEAL OF TEXAS SERVICE CENTER DECISION

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

Today we have occasion to explore how an individual may demonstrate eligibility for a first preference immigrant visa during a career transition from competing as an athlete to coaching the next generation of athletes.

The Petitioner, a judo expert, seeks classification as an individual “of extraordinary ability” in athletics (judo). *See* Immigration and Nationality Act (the Act) section 203(b)(1)(A), 8 U.S.C. § 1153(b)(1)(A). This immigrant classification is 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, Texas Service Center, denied the petition. The Director concluded that the Petitioner had not satisfied the initial evidence requirements set forth at 8 C.F.R. § 204.5(h)(3), which necessitate either (1) evidence of a one-time major achievement, or (2) evidence that meets at least three of ten regulatory criteria.

The matter is now before us on appeal. The Petitioner submits additional evidence and states that the Director erred in finding that fewer than three criteria were established.

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

I. LAW

Subparagraph (A) of section 203(b)(1) of the Act makes an immigrant visa available to a foreign national:

- (i) [who] 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) [who] seeks to enter the United States to continue work in the area of extraordinary ability, and

(iii) [whose] entry into the United States will substantially benefit prospectively the United States.

The term “extraordinary ability” is defined as “a level of expertise indicating that the individual is one of that small percentage who have risen to the very top of the field of endeavor.” 8 C.F.R. § 204.5(h)(2). To show extraordinary ability, the regulations require initial evidence of either (1) “evidence of a one-time achievement (that is, a major, internationally recognized award),” or (2) documentation that satisfies at least three of the ten evidentiary categories listed at 8 C.F.R. § 204.5(h)(3)(i)-(x). If a petitioner submits the required initial evidence, we then conduct a final merits determination to evaluate whether the totality of the record demonstrates, by a preponderance of the evidence, that the individual enjoys sustained national or international acclaim and recognition of his or her accomplishments in the field of expertise. *See Kazarian v. USCIS*, 596 F.3d 1115 (9th Cir. 2010). *See also Rijal v. USCIS*, 772 F.Supp.2d 1339 (W.D. Wash. 2011), *aff’d*, 683 F.3d. 1030 (9th Cir. 2012); *Visinscaia v. Beers*, 4 F.Supp.3d 126, 131-32 (D.D.C. 2013); *Matter of Chawathe*, 25 I&N Dec. 369, 376 (AAO 2010).

In addition to demonstrating extraordinary ability, the Petitioner must also show by clear evidence that he is coming to the United States “to continue to work in the area of extraordinary ability.” Section 203(b)(1)(A)(ii) of the Act; *see also* 8 C.F.R. § 204.5(h)(5) (requiring that the continued work be within the “area of expertise”). We will explore below how one may satisfy this second statutory prong – working “in the area of extraordinary ability” – amid a career transition.

II. ANALYSIS

A. Extraordinary Ability

1. Antecedent Procedural Question

The Director determined that the Petitioner only satisfied two of the ten initial evidence requirements set forth at 8 C.F.R. § 204.5(h)(3). On appeal, the Petitioner asserts he satisfied additional criteria. We find the Petitioner’s evidence satisfies the following three criteria:

Documentation of the alien’s receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor.

The record reflects that the Petitioner won first place in both the [REDACTED] and the [REDACTED]. As explored in greater detail below, the record demonstrates that these are nationally or internationally recognized prizes or awards for excellence in the field of endeavor. 8 C.F.R. § 204.5(h)(3)(i).

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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.

The Petitioner provided an article from *Seoul Yonhap News* entitled ‘ [REDACTED] [REDACTED] ’ about his victory at the [REDACTED]

The piece features a large picture of the Petitioner clenching his fists in victory and describes his performance in the various rounds of the tournament. The Petitioner is clearly the article's focus. Though the Petitioner did not provide additional evidence to demonstrate that this article was published by a “major” media, we take administrative notice that *Yonhap News Agency* (*Yonhap*) is Korea's largest news organization with over 500 journalists and photographers at its Seoul headquarters.¹ It provides news to 78 foreign agencies, as well as 3000 news articles, pictures and other information each day to Korean newspapers, television networks and other media. *Id.* The far reach of *Seoul Yonhap News* qualifies it as major media. Accordingly, the Petitioner has met this criterion by submitting an article “about” him from a “major” medium. 8 C.F.R. § 204.5(h)(3)(iii).

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.

On appeal, the Petitioner states that a position on the national judo team is effectively the most difficult association membership for a judo athlete to obtain, particularly in Korea, which has the third-most Olympic medals in judo of any nation. The Petitioner was a member of the Korean national judo team in 2000, 2004, 2005, 2006, 2007, 2008, 2011, and 2012. Letters from Olympic medalists [REDACTED] and [REDACTED] refer to training with the Petitioner at the national training center. In addition, the record shows that the Petitioner placed first, second, or third in selection matches that determine who would be on the national team. Only those with the highest level of performance made the team, and that selection was performed by judo judges at the national level. We agree with the Petitioner that his membership on the Korean national team is, in effect, an association membership that requires outstanding achievements, as judged by national experts in judo.² Accordingly, the Petitioner has met this criterion. 8 C.F.R. § 204.5(h)(3)(ii).

¹ See *About Us*, Yonhap News Agency, <http://english.yonhapnews.co.kr/AboutUs/index.html> (last visited Jan 7, 2016 and incorporated into the record of proceedings).

² While 8 C.F.R. § 204.5(h)(3)(ii) expressly references a plurality of “associations in the field which require outstanding achievements of their members,” we construe this criterion broadly as inclusive of a singular “association.” A narrower interpretation could preclude individuals, who in fact clearly have extraordinary ability in their field, from establishing eligibility if their field is one in which only a single such association, no matter how distinguished, exists. See, e.g., *Buletini v. INS*, 860 F. Supp. 1222, 1230-31 (E.D. Mich. 1994) (single award satisfies “prizes or awards” criterion at 8 C.F.R. § 204.5(h)(3)(i)).

2. Final Merits Determination

The next step is a final merits determination that considers all evidence in the context of whether or not the Petitioner has demonstrated a level of expertise indicating that he or she is one of that small percentage who have risen to the very top of the field of endeavor demonstrated by sustained national or international acclaim and achievements that have been recognized in the field through extensive documentation. Section 203(b)(1)(A) of the Act; 8 C.F.R. § 204.5(h)(2). *See also Kazarian*, 596 F.3d at 1119-20.

The Petitioner has demonstrated a long, successful, and recent career as a professional judo athlete at the highest level of national and international competition. For eight of the years between 2000 and 2012, the Petitioner was a member of the Korean national team. During that time, he competed in numerous national and international competitions and frequently placed first, second, or third.

To demonstrate the significance of his victories, the Petitioner provided information about the International Judo Federation's (IJF) point-based ranking system. For each of the seven most prestigious types of international competitions, judo athletes get a designated number of points based on how they finish:

	1st	2nd	3rd	5th	7th	1/16th	1/32nd	1 fight
Olympics	1000	600	400	200	160	120	80	40
World Championship	900	540	360	180	144	108	72	36
Masters	700	420	280	140	112	-	-	28
Grand Slam	500	300	200	100	80	60	40	20
Continental	400	240	160	80	64	48	32	16
Grand Prix	300	180	120	60	48	36	24	12
Continental Open	100	60	40	20	16	12	8	4

The Petitioner acquired his most impressive finishes in [REDACTED] and [REDACTED]. In [REDACTED] the Petitioner won first place at the [REDACTED] worth 500 points, more points than afforded an Olympic bronze medal. The aforementioned *Yonhap* article indicates the impressive nature of this accomplishment and the acclaim associated with it. In [REDACTED] he placed second at the [REDACTED] and first at [REDACTED] (now known as a [REDACTED]), worth 300 points each for a total of 600 points. When viewed in the context of the most prestigious international competitions, including the more universally recognized Olympic Games, the Petitioner's victories clearly indicate an athlete at the top of the field of endeavor.

The record also contains three letters of support from prominent Korean judo athletes who further substantiate the Petitioner's acclaim. [REDACTED] the [REDACTED] Team coach and winner of a gold medal in the [REDACTED] Olympics, stated he trained with the Petitioner on the Korean national team. He referenced the Petitioner's leadership as captain of the [REDACTED] team, as well as his win of the Best Player Award from the [REDACTED] in 2006, 2007, and 2008. Next, [REDACTED] coach of the [REDACTED] Team and winner of a

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gold medal in the [REDACTED] Olympics, described training with the Petitioner and noted that he served as a role model for others, particularly as [REDACTED] of the national team “from [REDACTED]” Lastly, [REDACTED] president of the Judo Union of [REDACTED] and current head of [REDACTED] national training center, authored a letter referring to the inspiration the Petitioner provided others by competing at the international level at an age when many have long since retired.

The Petitioner’s credentials show he has sustained his prominence in the field. The Petitioner was on the Korean national team as recently as 2012, and he continued to compete and win on the national and international levels through 2013. His more recent victories include placing third in 2012, in the [REDACTED] and second in 2013, in the [REDACTED] and [REDACTED]

The Petitioner’s achievements in competition, corroborated by expert letters and prominent news articles, demonstrate his accomplishments as a judo athlete as well as sustained acclaim and recognition in the field. As a result, the Petitioner has established his extraordinary ability in judo.

B. Continuing Work in the Area of Expertise

Next, the Petitioner must show “by clear evidence that he is coming to the United States to continue to work in the *area* of extraordinary ability.” Section 203(b)(1)(A)(ii) of the Act (emphasis added); *see also* 8 C.F.R. § 204.5(h)(5) (requiring that the continued work be within the “area of expertise”). Neither the statute nor the regulation defines the term “area,” whether of extraordinary ability or “expertise.”³

Defining the cognizable area of extraordinary ability or expertise is further complicated when, as here, a petitioner is transitioning to another phase of his or her career. Though he demonstrated extraordinary ability as a judo *athlete*, the Petitioner listed on the Form I-140, Immigrant Petition for Alien Worker, his proposed employment in the United States as judo *coach*. In a personal statement, the Petitioner indicated he plans to open a judo academy, train promising young players, and eventually coach an American judo team in the Olympics.

The question presented here is whether -- and if so, how -- a petitioner’s area of extraordinary ability or expertise may properly encompass both athletic competition as well as coaching other athletes. The U.S. Citizenship and Immigration Services Adjudicator’s Field Manual (AFM) provides an analytical footpath by which a petitioner may transition from athlete to coach and yet remain within his or her area of expertise:

In general, if a beneficiary has clearly achieved *recent* national or international acclaim as an athlete and has sustained that acclaim in the field of coaching/managing at a national level, adjudicators can consider the totality of the evidence as

³ We do not need to explore today the distinction, if any, between the statutory term “extraordinary ability” and the regulatory term “expertise.”

establishing an overall pattern of sustained acclaim and extraordinary ability such that we can conclude that coaching is within the beneficiary's area of expertise.

AFM ch. 22.2(i)(1)(C) (emphasis in original). We believe this statement may be expressed more simply as follows: We may conclude that coaching is within an athlete's area of expertise under section 203(b)(1)(A)(ii) of the Act if (1) the individual's national or international athletic acclaim was recent, and (2) he or she sustained that acclaim upon transition to coaching at a national level. To make this determination, we consider the totality of the evidence.⁴

As outlined above, the record demonstrates the Petitioner's recent athletic acclaim. He placed second in national competitions as recently as October of 2013, and was a member of Korea's national team as recently as 2012. He filed the instant petition on May 16, 2014, within seven months of his last major competitive achievement.⁵ Moreover, the record indicates no appreciable lapse between his days of competing as an athlete and coaching at the national level. Following retirement from competition in 2013, the Petitioner signed a contract with the Sports Authority of India in [REDACTED] to train Indian judo athletes preparing for the 2014 Asian Games and Commonwealth Games, the 2016 Olympic Games, and other international competitions.⁶ *Cf. Integrity Gymnastics & Pure Power Cheerleading, LLC v. USCIS*, No. 2:10-CV-440, 2015 WL 5380643 (S.D. Ohio Sep. 14, 2015) (upholding the AAO's finding that coaching was not within the cognizable area of expertise for a gymnast who last competed 20 years prior to coaching at the high school level). These considerations support a finding that the Petitioner's extraordinary ability and sustained acclaim as a judo athlete, addressed in section A above, extend to his work as a judo coach.

The record also shows a progression of education, experience, and licensing that has positioned the Petitioner to continue in his area of expertise as a judo coach. In 2003, he received a bachelor's degree in physical education with a focus on athletic coaching. In 2005, the Petitioner received a master's degree in physical education for which he wrote a thesis on the anxiety levels of athletes during judo matches. From 2003 to 2006, he coached the [REDACTED] University judo team, several members of which placed first, second, or third at national university tournaments. In 2008, the Petitioner obtained a Class 2 Judo Sports Coach License, and in 2011, he obtained a Class 1 Judo Sports Coach License. These preparatory steps taken by the Petitioner throughout his career as an athlete further support a finding that coaching is within his area of expertise.

The Petitioner demonstrated his extraordinary ability as a judo athlete. The totality of the evidence also establishes that the area of expertise in which he enjoys sustained national or international

⁴ While the AFM only expressly addresses the career transition between athlete and coach, we do not mean to imply that this is the only career transition that may occur within an individual's area of expertise. Because the case before us concerns the very athlete-coach transition contemplated in the AFM, we need not address what other career transition scenarios might warrant a similar analysis (e.g., athlete-to-broadcaster or musician-to-instructor).

⁵ We do not purport to establish a particular timeframe within which the transition from competing to coaching is deemed sufficiently recent.

⁶ The record further substantiates that arrangements were made for the Petitioner and his family to reside in India while he works with the Indian athletes.

acclaim includes judo coaching. AFM ch. 22.2(i)(1)(C). Finally, the Petitioner has demonstrated he seeks to work in the United States in this area of expertise, which encompasses both athleticism and coaching. 8 C.F.R. § 204.5(h)(5).

III. CONCLUSION

The Petitioner submitted the requisite initial evidence and demonstrated his extraordinary ability when considered in a final merits decision. Section 203(b)(1)(A)(i) of the Act. He presented a sufficient nexus between his ability as an athlete and his work as a coach, such that we conclude that he seeks to enter the United States to continue to work in his area of extraordinary ability. Section 203(b)(1)(A)(ii) of the Act. By demonstrating that he seeks to continue to work in his area of extraordinary ability, and there being no indication otherwise, we are satisfied that the Petitioner's entry will substantially benefit prospectively the United States. Section 203(b)(1)(A)(iii) of the Act. Therefore, the Petitioner has met the burden of proof necessary to establish eligibility for the benefit sought. Sections 203(b)(1)(A), 291 of the Act.

ORDER: The appeal is sustained.

Cite as *Matter of K-S-Y-*, ID# 14269 (AAO Mar. 9, 2016)