



U.S. Citizenship  
and Immigration  
Services

Non-Precedent Decision of the  
Administrative Appeals Office

MATTER OF C-K-

DATE: APR. 27, 2018

APPEAL OF TEXAS SERVICE CENTER DECISION

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

The Petitioner, a water-skier, seeks classification as an individual of extraordinary ability in athletics. *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 Form I-140, Immigrant Petition for Alien Worker, concluding that the Petitioner had shown that the Beneficiary met one of the ten initial evidentiary criteria, of which he must meet at least three.

On appeal, the Petitioner submits additional evidence and contends that he meets three criteria.

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

I. LAW

Section 203(b)(1)(A) of the Act makes visas available to immigrants with extraordinary ability 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 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 two options for satisfying this classification's initial evidence

requirements. First, a petitioner can demonstrate a one-time achievement (that is a major, internationally recognized award). Alternatively, he or she must provide documentation that meets at least three of the ten categories of evidence listed at 8 C.F.R. § 204.5(h)(3)(i)-(x) (including items such as awards, memberships, and published material in certain media).

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 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), *aff'd*, 683 F.3d 1030 (9th Cir. 2012); *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 U.S. Citizenship and Immigration Services (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”). Accordingly, where a petitioner submits qualifying evidence under at least three criteria, we will determine whether the totality of 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. 8 C.F.R. § 204.5(h)(2)-(3).

## II. ANALYSIS

The Petitioner is a water-skier. As the Petitioner has not established that he has received a major, internationally recognized award, he must satisfy at least three of the ten criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x).

### A. Evidentiary Criteria

The Director held that the Petitioner only met the published material criterion at 8 C.F.R. § 204.5(h)(3)(iii), concluding that the evidence in the record did not support the following additional criteria: awards at 8 C.F.R. § 204.5(h)(3)(i) and membership at 8 C.F.R. § 204.5(h)(3)(ii). Here we find that the Petitioner meets these latter two criteria in addition to the published material criterion.

We agree with the Director’s conclusion regarding published material about the Petitioner relating to his successes in waterskiing, including [REDACTED] and articles in the [REDACTED] and [REDACTED] newspapers, among other published material.

Under awards, the Director held that the Petitioner had not submitted sufficient evidence demonstrating that his awards are national or international in scope. On appeal, the Petitioner highlights the evidence of his numerous awards throughout a 19-year career including fifth place at the [REDACTED], sixth place at the [REDACTED], sixth place at the [REDACTED] and third place at the [REDACTED] among many other awards. In a letter from [REDACTED]

██████████ President of the ██████████, he states that the ██████████ sponsors premier internationally recognized events “at the most highly respected sports venues” in which those who are invited to compete “are the world’s best athletes in the three event water ski sport who have achieved many successes in their home country and seek to win another international title.” ██████████ the Executive Director of ██████████, further indicates that the “U.S. Masters Championships is the most prestigious event in the U.S. and is by invitation only.” The record reflects that in 2013, the Petitioner won sixth place in the men’s jump category at this event. The evidence in the record sufficiently demonstrates that the awards discussed above are nationally or internationally recognized for excellence in his sport.

Regarding membership in an association that requires outstanding achievements of its members, the Director held that the Petitioner had not established that his memberships in the ██████████, the ██████████, the ██████████, and ██████████ required outstanding achievements of its members. The record reflects that the Petitioner is also a member of the, the University of ██████████ men’s water ski team, the University of ██████████ men’s water ski team, and the ██████████ national water ski team.

On appeal, the Petitioner provides additional evidence of the requirements to be selected for the ██████████ national water ski team. In a letter from ██████████ the coach of the ██████████ national water ski team, he indicates that he is “part of the committee which decides on the annual requirements and qualification limits for the national team.” He states that “[t]he results that skiers need to perform are based upon results from major international title events such as World and European Championships” and that an individual “must meet these criteria . . . to be considered for the national team.” The Petitioner submitted evidence of the ██████████ qualification requirements that must be met for membership on the ██████████ Team, divided into an A, B, and C team.<sup>1</sup>

The record contains a letter from ██████████, the President of the ██████████ which he states “is responsible for many annual tournaments such as the ██████████ the ██████████, as well as the sanctioning of international record tournaments, such as the ██████████ and the ██████████” He states that the Petitioner has been selected “to represent ██████████ at the past two ██████████ which are only held every four years and represent the equivalent of the ██████████ We find that the Petitioner has submitted sufficient evidence demonstrating that the ██████████ national water ski team requires outstanding achievements by its members as a prerequisite for joining the team. Therefore, the Petitioner meets this criterion.

We conclude that this evidence establishes that the Petitioner meets these three initial evidentiary criteria, as required, and therefore, we will discuss the remaining documentation in the context of a final merits determination.

---

<sup>1</sup> The Petitioner is listed as a member of the ██████████ team for 2017.

## B. Final Merits Determination

As the record satisfies at least three of the regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x), we will analyze the Petitioner's accomplishments and weigh the totality of the evidence to determine if his successes are sufficient to demonstrate that he has extraordinary ability in the field of endeavor. We evaluate whether he has demonstrated, by a preponderance of the evidence, that he has sustained national or international acclaim and that his achievements have been recognized in the field through extensive documentation, making him one of the small percentage who have risen to the very top of the field of endeavor. See section 203(b)(1)(A)(i) of the Act; 8 C.F.R. § 204.5(h)(2), (3): see also *Kazarian*, 596 F.3d at 1119-20. Here, the Petitioner has shown his eligibility for this classification.

The record reflects that the Petitioner has won more than 40 national waterskiing titles for the [REDACTED] over a 16-year period. In his letter, [REDACTED] the President of the [REDACTED] states that since 2007 the Petitioner "has been able to win the [REDACTED] 19 times, which makes him the most successful athlete within that timeframe." He further asserts that the Petitioner is "the figurehead of [REDACTED] water skiing on the international level." This constitutes sustained national acclaim in [REDACTED] for waterskiing.

In addition, the Petitioner has received numerous high level awards in the U.S. and internationally. The Petitioner was awarded the [REDACTED] in 2013. He achieved sixth place in the [REDACTED] in the jump category, which [REDACTED] the Executive Director for [REDACTED] asserts is "the most prestigious [water-skiing] event in the U.S. and is by invitation only." Internationally, the Petitioner placed fifth at the [REDACTED] sixth place at the [REDACTED] and third place at the [REDACTED]. These accomplishments are also indicative of the Petitioner's international acclaim in waterskiing.

The published material about the Petitioner in [REDACTED] together with articles in the [REDACTED] and [REDACTED] newspapers demonstrate that he is highly regarded as one of [REDACTED] top water-skiers in the sport. The Petitioner's photograph appears on the cover of the [REDACTED] magazine. An article in [REDACTED] dated [REDACTED] 2011, states that the Petitioner is "the best [REDACTED] waterski jumper" and adds that he "has [REDACTED] best chances at the waterski world championship" in [REDACTED] Russia. An article in [REDACTED] dated [REDACTED] 2015, claims that the Petitioner "has reached the world elite." These, and many other articles, highlight the Petitioner's years of national and international success in water-skiing, demonstrating that he has risen to the very top of his sport.

Regarding the Petitioner's memberships, [REDACTED] recognizes that the Petitioner "is the cornerstone of our national team" and that he has represented his country in water-skiing for over 16 years. [REDACTED] asserts that "[n]o other athlete has been chosen to represent [REDACTED] at major international tournaments such as World and European Championships more often than him." He adds that the Petitioner has been selected "to represent [REDACTED] at the past two [REDACTED] which are only held every four years and represent the equivalent of the [REDACTED] for non-Olympic sports."

In addition, [REDACTED] the water ski coach for the University of [REDACTED] states that [REDACTED] has the number one water ski team in the United States and has won 28 national titles over its 40-year history. [REDACTED] indicates that the Petitioner was ranked second in the world in the [REDACTED] level at the time [REDACTED] recruited him and that as part of [REDACTED] water ski team, he “was an integral part of two national championship winning teams as well as earning All-American honors in both years competing for the University.” The record reflects that the Petitioner has been ranked by the [REDACTED] as high as 6th place in Men’s Jump for [REDACTED] and 12th place in the world rank for Men’s Open Jump.

This evidence, in its totality, is consistent with a finding that the Petitioner is among the small percentage at the top of his field of endeavor. *See* 8 C.F.R. § 204.5(h)(2). When considered in the aggregate with the evidence discussed above, the Petitioner has demonstrated that his achievements are reflective of a “career of acclaimed work in the field” as contemplated by Congress. H.R. Rep. No. 101-723, 59 (Sept. 19, 1990). We conclude that the record supports a finding that the Petitioner is among the small percentage at the top of his field of endeavor with sustained national or international acclaim. *See* 8 C.F.R. § 204.5(h)(2)-(3).<sup>2</sup>

### III. CONCLUSION

The Petitioner has shown that he meets at least three of the evidentiary criteria listed at 8 C.F.R. § 204.5(h)(3)(i)-(x). He has also demonstrated sustained national and international acclaim and that his achievements have been recognized through extensive documentation. He therefore qualifies for classification as an individual of extraordinary ability.

**ORDER:** The appeal is sustained.

Cite as *Matter of C-K-*, ID# 1223184 (AAO Apr. 27, 2018)

---

<sup>2</sup> We also find that the Petitioner has demonstrated that he intends to continue to work in the United States in his area of expertise. *See* section 203(b)(1)(A)(iii) of the Act and 8 C.F.R. § 204.5(h)(5).