



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

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

MATTER OF S-L-

DATE: FEB. 27, 2018

APPEAL OF NEBRASKA SERVICE CENTER DECISION

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

The Petitioner, a speed skater and coach, 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 Nebraska Service Center denied the Form I-140, Immigrant Petition for Alien Worker, concluding that the Petitioner had not shown that the Beneficiary met any 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 dismiss 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).

Where a petitioner meets these initial evidence requirements, we then consider the totality of the material provided in a final merits determination and assess whether 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. *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). This two-step analysis is consistent with our holding that the “truth is to be determined not by the quantity of evidence alone but by its quality,” as well as the principle that we examine “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.” *Matter of Chawathe*, 25 I&N Dec. 369, 376 (AAO 2010).

II. ANALYSIS

The Petitioner is a speed skater and coach. 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). The Director held that the Petitioner had not satisfied any of these criteria. On appeal, the Petitioner asserts that he meets the following criteria: awards at 8 C.F.R. § 204.5(h)(3)(i), original contributions under 8 C.F.R. § 204.5(h)(3)(v), and leading or critical role at 8 C.F.R. § 204.5(h)(3)(viii). For the reasons discussed below, the record does not support a finding that the Petitioner satisfies at least three criteria.

Documentation of the alien’s receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor. 8 C.F.R. § 204.5(h)(3)(i).

The Petitioner submitted certificates indicating that he received first place in a number of races in the [REDACTED] the [REDACTED] and the [REDACTED] in the Ukraine between 2003 and 2015. On appeal, the Petitioner submits no new evidence to establish that these events received national or international recognition, a concern noted by the Director. In addition, the record does not contain corroborating evidence, such as the official results of these competitions, to establish the Petitioner’s receipt of the awards. Therefore, the Petitioner has not established that he meets this criterion.

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Evidence of the alien's original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field. 8 C.F.R. § 204.5(h)(3)(v).

The Petitioner asserts that he meets this criterion due to his ability as a speed skating coach to modify the skates with the proper bend of the blade to enable skaters to maintain their speed when taking sharp turns. The record contains several letters from members of the [REDACTED] indicating that the Petitioner's coaching and blade preparation helped the team members set personal records in the [REDACTED] in [REDACTED] in 2016. The record contains two letters from [REDACTED] the General Secretary of the [REDACTED] who states that the Petitioner "has incredible skills concerning skates adjustment and sharpening for short-track and making of special shoes" and that these abilities helped improve the time of the [REDACTED] in the [REDACTED] in 2016.

These letters do not state that the Petitioner's contributions have had an overarching impact in the field of speed skating. The record does not contain additional evidence indicating that others in the field are utilizing the Petitioner's blade-shaping method. While we acknowledge that the Petitioner's expertise and technical abilities appear to have made a difference for the members of the [REDACTED] in 2016, the record does not support a finding that this amounts to original contributions of major significance in the field. Therefore, he has not demonstrated that he meets this criterion.

Evidence that the alien has performed in a leading or critical role for organizations or establishments that have a distinguished reputation. 8 C.F.R. § 204.5(h)(3)(viii).

A leading role should be apparent by its position in the overall organizational hierarchy and through the role's matching duties. A critical role should be apparent from the Beneficiary's impact on the organization or the establishment's activities. The Petitioner's performance in this role should establish whether the role was critical for the organization or establishment as a whole.

The letters from [REDACTED] state that the Petitioner was on the [REDACTED] for more than 14 years. However, the record does not explain the relationship between the [REDACTED] and the [REDACTED]. Beyond the testimonial letters from [REDACTED] the record does not contain corroborating evidence regarding the nature and length of the Petitioner's tenure with [REDACTED]. The record also lacks evidence supporting [REDACTED] claims regarding the Petitioner's participation as a skater or coach in the [REDACTED] and the [REDACTED].

[REDACTED] states that in his "last years of active sports [the Petitioner] was spending a lot of time improving technical and tactical skills in Short Track" and he was "an active worker as a coach of the [REDACTED] indicates that the Petitioner has over ten years of experience in the "professional preparation of blades" and that the latest example of him utilizing this expertise occurred in 2016, as noted above, where the Petitioner's blade work assisted four members of the [REDACTED] in setting personal best records in their races. While we acknowledge the

positive impact the Petitioner appears to have had on the team members, the evidence in the record does not demonstrate that his role constituted a leading or critical role. Therefore, the Petitioner does not meet this criterion.

III. CONCLUSION

The Petitioner is not eligible because he has not submitted the required initial evidence of either a qualifying one-time achievement or documents that meet at least three of the ten criteria listed at 8 C.F.R. § 204.5(h)(3)(i)-(x). Thus, we do not need to fully address the totality of the materials in a final merits determination. *Kazarian*, 596 F.3d at 119-20. Nevertheless, we advise that we have reviewed the record in the aggregate, concluding that it does not support a finding that the Petitioner has the level of expertise required for the classification sought.

ORDER: The appeal is dismissed.

Cite as *Matter of S-L-*, ID# 926509 (AAO Feb. 27, 2018)