



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

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

In Re: 4687466

Date: NOV. 27, 2019

Appeal of Texas Service Center Decision

Form I-140, Immigrant Petition for Alien Worker (Extraordinary Ability)

The Petitioner, a table tennis player, seeks classification as an alien of extraordinary ability. *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 petition, concluding that although the Petitioner satisfied three of the initial evidentiary criteria, in which he must meet at least three, he did not show his sustained national or international acclaim and demonstrate that he is among the small percentage at the very top of the field of endeavor.

In these proceedings, it is the Petitioner's burden to establish eligibility for the requested benefit. *See* Section 291 of the Act, 8 U.S.C. § 1361. Upon *de novo* review, we will dismiss the appeal.

I. LAW

Section 203(b)(1) 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 a multi-part analysis. First, a petitioner can demonstrate sustained acclaim and the recognition of his or her achievements in the field through a one-time achievement (that is, a major, internationally recognized award). If that petitioner does not submit this evidence, then he or she must provide sufficient qualifying documentation that meets at least three of the ten categories listed at 8 C.F.R. § 204.5(h)(3)(i) – (x) (including items such as awards, published material in certain media, and scholarly articles).

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).

II. ANALYSIS

The Petitioner competed in table tennis events in Nepal and Australia. Because the Petitioner has not indicated or established that he has received a major, internationally recognized award, he must satisfy at least three of the alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x).

In denying the petition, the Director determined that the Petitioner fulfilled three of the initial evidentiary criteria, awards at 8 C.F.R. § 204.5(h)(3)(i), published material at 8 C.F.R. § 204.5(h)(3)(iii), and judging at 8 C.F.R. § 204.5(h)(3)(iv). On appeal, the Petitioner argues that he meets two additional criteria.

We have reviewed all of the evidence in the record and conclude that it does not support a finding that the Petitioner meets the requirements of at least three criteria. Although the record reflects that the Petitioner received nationally and internationally recognized awards and garnered media coverage satisfying the awards and published material criteria, for the reasons discussed later, we do not concur with the Director's decision relating to the judging criterion. In addition, for the explanations discussed below, the Petitioner did not demonstrate that he fulfills any additional criteria.

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. 8 C.F.R. § 204.5(h)(3)(ii).

The Petitioner claims eligibility for this criterion based on membership with the [REDACTED]. In order to satisfy this criterion, the Petitioner must show that membership in the association is based on being judged by recognized national or international experts as having outstanding achievements in the field for which classification is sought.¹

¹ See USCIS Policy Memorandum PM 602-0005.1, *Evaluation of Evidence Submitted with Certain Form I-140 Petitions: Revisions to the Adjudicator's Field Manual (AFM) Chapter 22.2, AFM Update AD11-14 6* (Dec. 22, 2010), <https://www.uscis.gov/policymanual/HTML/PolicyManual.html> (providing an example of admission to membership in the National Academy of Sciences as a Foreign Associate that requires individuals to be nominated by an academy member, and membership is ultimately granted based upon recognition of the individual's distinguished achievements in original research).

At initial filing, he provided a letter from [redacted] who indicated that the Petitioner “was selected through trial from the competitive group of nominees in our club in the year of 2009.” In addition, the Petitioner submitted a letter from [redacted] sports journalist, who stated that [redacted] provided the Petitioner “with several chances to be the part of the club as a professional tennis player.” Further, the Petitioner presented three newspaper articles covering table tennis matches that mentioned his membership with [redacted]

The Director found that the evidence did not show the membership requirements for [redacted] let alone that outstanding achievements are required for membership, as judged by recognized national or international experts. As such, the Director requested the Petitioner to submit [redacted] constitution or bylaws discussing the membership requirements. In response, the Petitioner provided a copy of [redacted] [redacted]’s letter, two media articles mentioning him as part of [redacted] in table tennis competitions, two award certificates listing him as a member of [redacted], and a sporting event credential indicating his affiliation with [redacted]

While the documentation reflects his membership with [redacted] the Petitioner did not establish that [redacted] requires outstanding achievements, as judged by recognized national or international experts. Moreover, the Petitioner did not provide [redacted] constitution or bylaws or other evidence showing the membership requirements for [redacted]. Furthermore, [redacted] did not include specific, detailed information elaborating on the “select[ion] through trial” procedure. Finally, the Petitioner did not demonstrate that recognized national or international experts judge the outstanding achievements of [redacted] prospective members.

Accordingly, the Petitioner did not show that he meets this criterion.

Evidence of the alien’s participation, either individually or on a panel, as a judge of the work of others in the same or an allied field of specialization for which classification is sought. 8 C.F.R. § 204.5(h)(3)(iv)

The Director found that the Petitioner fulfilled this criterion. This regulatory criterion requires a petitioner to show that he has acted as a judge of the work of others in the same or an allied field of specialization.² For the reasons outlined below, the record does not reflect that the Petitioner submitted sufficient documentary evidence demonstrating that he meets this criterion, and the Director’s determination on this issue will be withdrawn.

The record reflects that the Petitioner submitted certificates and documents showing his participation as an “umpire” or a “referee” at table tennis competitions.³ However, the Petitioner did not demonstrate that the position of a table tennis umpire, referee, or judge involves evaluating or judging the work or skills of competitors as opposed to enforcing the rules of a match and ensuring sportsmanlike competition. Moreover, the record lacks other evidence, such as official competition rules for the tournaments listed on the certificates or for table tennis in general, showing that serving as an “umpire” or “referee” in this instance equates to participating as a “judge” of the work of others. Without further documentation, such as evidence that he awarded points or exercised his judgment in

² See USCIS Policy Memorandum PM 602-0005.1, *supra*, at 8.

³ Some of the documents contain “(Judge)” next to “umpire” or “referee.”

choosing the ultimate winner, evidence regarding officiating at matches is insufficient to meet this criterion.

For the reasons discussed above, the Petitioner did not demonstrate that he participated as a judge of the work of others consistent with this regulatory criterion. Accordingly, we withdraw the decision of the Director for 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).

The Petitioner argues that he performed in a critical role for [redacted]⁴ Regarding a critical role, the evidence must demonstrate that a petitioner has contributed in a way that is of significant importance to the outcome of the organization or establishment's activities. It is not the title of a petitioner's role, but rather the performance in the role that determines whether the role is or was critical.⁵

Moreover, the Petitioner contends that the Director only discussed a letter from [redacted] acting director for the [redacted] and specifically points to the previously indicated letter from [redacted] As it relates to [redacted]'s letter, he summarized the Petitioner's accomplishments in table tennis tournaments and events and briefly stated that the Petitioner "also played for [redacted] and is highly recommended for his brilliant performance in Table Tennis." Regarding [redacted] he claimed that the Petitioner "is recognized as an extraordinary player as compared to other players in the club team and he has played a vital role in making the [redacted] as the number one club of the country."

The letters, however, do not contain specific, detailed information supporting their opinions.⁶ For instance, [redacted] did not describe how the Petitioner's "brilliant performance" contributed to the overall success or standing of [redacted] Moreover, [redacted] did not elaborate on how the Petitioner is an "extraordinary player as compared to other players" or how his performances resulted in [redacted] ranking. Further, repeating the language of the statute or regulations does not satisfy the petitioner's burden of proof. *Fedin Bros. Co., Ltd. v. Sava*, 724 F. Supp. 1103, 1108 (E.D.N.Y. 1989), *aff'd*, 905 F. 2d 41 (2d. Cir. 1990); *Avyr Associates, Inc. v. Meissner*, 1997 WL 188942 at *5 (S.D.N.Y.). Although the letters confirm the Petitioner's membership with [redacted] they do not contain detailed, probative information demonstrating the critical nature he performed for [redacted] Again, while the previously discussed articles indicate his performances in table tennis tournaments, they do not show how the Petitioner played an essential role for [redacted] overall.

Furthermore, the Petitioner did not establish that [redacted] enjoys a distinguished reputation.⁷ The Petitioner argues that "[redacted] distinguished reputation is an admitted matter," and "[i]ts athletes are

⁴ The Petitioner does not claim, nor does the record reflect, that he performed in a leading role for [redacted]

⁵ *Id.*

⁶ See USCIS Policy Memorandum PM 602-0005.1, *supra*, at 10 (stating that letters from individuals with personal knowledge of the significance of a petitioner's leading or critical role can be particularly helpful in making this determination as long as the letters contain detailed and probative information that specifically addresses how the role for the organization or establishment was leading or critical).

⁷ See USCIS Policy Memorandum PM-602-0005.1, *supra*, at 10-11 (defining *Merriam-Webster's Dictionary* definition of

selected as Nepal's representatives to international tournaments such as the [redacted] Games and [redacted] Games." Although the Petitioner broadly refers to media articles of table tennis tournaments, he does not identify documentation to support his assertions. In fact, the record contains only one article posted on myrepublica.org indicating that [redacted] "succeeded to get the most (three) players selected for the [redacted] Games."⁸ However, the Petitioner did not establish that having three players selected for the [redacted] Games is sufficient to show [redacted] distinguished reputation. In addition, while [redacted] claimed that [redacted] is "Nepal's most prestigious club," he did not further elaborate or support his opinion with detailed information. Here, the Petitioner did not include evidence, for example, showing the overall field's view of [redacted] how its reputation compares to other table tennis clubs, or how its successes or accomplishments relates to others, signifying a distinguished reputation consistent with the regulatory criterion.

Accordingly, the Petitioner did not establish that he satisfies this criterion.

III. CONCLUSION

The Petitioner has not submitted the required initial evidence of either a one-time achievement or documents that meet at least three of the ten criteria. As a result, we need not provide the type of final merits determination referenced in *Kazarian*, 596 F.3d at 1119-20. Nevertheless, we advise that we have reviewed the record in the aggregate, concluding that it does not support a finding that the Petitioner has established the acclaim and recognition required for the classification sought.

The Petitioner seeks a highly restrictive visa classification, intended for individuals already at the top of their respective fields, rather than for individuals progressing toward the top. USCIS has long held that even athletes performing at the major league level do not automatically meet the "extraordinary ability" standard. *Matter of Price*, 20 I&N Dec. 953, 954 (Assoc. Comm'r 1994). Here, the Petitioner has not shown that the significance of his athletic work is indicative of the required sustained national or international acclaim or that it is consistent with a "career of acclaimed work in the field" as contemplated by Congress. H.R. Rep. No. 101-723, 59 (Sept. 19, 1990); *see also* section 203(b)(1)(A) of the Act. Moreover, the record does not otherwise demonstrate that the Petitioner has garnered national or international acclaim in the field, and he is one of the small percentage who has risen to the very top of the field of endeavor. *See* section 203(b)(1)(A) of the Act and 8 C.F.R. § 204.5(h)(2). Although the Petitioner has successfully competed in table tennis events and received some press coverage, the record does not contain sufficient evidence establishing that he is among the upper echelon in his field.

For the reasons discussed above, the Petitioner has not demonstrated his eligibility as an individual of extraordinary ability. The appeal will be dismissed for the above stated reasons, with each considered as an independent and alternate basis for the decision.

ORDER: The appeal is dismissed.

"distinguished" as marked by eminence, distinction, or excellence).

⁸ If it is the Petitioner's intention that other media articles support his claims, he does not specify the articles.