



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

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

In Re: 6222696

Date: JAN. 30, 2020

Appeal of Texas Service Center Decision

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

The Petitioner, a martial artist, 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 the record did not establish that the Petitioner had satisfied at least three of ten initial evidentiary criteria, as required. The matter is now before us on appeal.

In these proceedings, it is the Petitioner's burden to establish eligibility for the requested benefit. 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)(A) of the Act makes immigrant visas available to aliens 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 they 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 practices and teaches karate. The record offers incomplete evidence regarding the Petitioner’s employment. Materials in the record appear to indicate that he was a science teacher in [redacted], while remaining active as a competitor. As of 2018, he was teaching martial arts to children and young adults with autism and developmental disabilities. He states that he seeks to “open schools in different places,” and to establish “a Sports Cultural Park in which he will train both special need and non-special need students.”¹

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). The Petitioner claims to have met five criteria, summarized below:

- (i), Lesser nationally or internationally recognized prizes or awards;
- (ii), Membership in associations that require outstanding achievements;
- (iii), Published material in professional or major media;
- (iv), Participation as a judge of the work of others; and
- (viii), Leading or critical role for distinguished organizations or establishments.

The Director found that the Petitioner met the first evidentiary criterion, relating to prizes. On appeal, the Petitioner asserts that he also meets the third, fourth, and eighth evidentiary criteria. After reviewing all of the evidence in the record, we find that the Petitioner has not met any of them.

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 Director found that the Petitioner satisfied the requirements of this criterion, because the Petitioner “submitted evidence in the form of newspaper articles which establishes the beneficiary was part of a

¹ When he filed the petition in December 2016, he was not authorized to work or reside in the United States, his B-2 nonimmigrant visitor’s visa having expired in June 2016. He subsequently obtained work authorization.

team . . . which won first place on two occasions at the [redacted] Games.” For the reasons explained below, we disagree and withdraw this portion of the Director’s decision.

A translated 1996 newspaper clipping from *Meridiano* profiled an athlete from the [redacted] University of [redacted], who competed at the “[redacted]” ([redacted]) in [redacted] Florida. The article indicates that athletes are scored on *kata*, defined as “form,” and *kumite*, defined as “combat.” A passage in that article reads: “Our brand new champion also said that other athlete winners were” five named athletes, including the Petitioner, said to have won a “black ribbon, third in kumte [*sic*].”

Undated clippings from unnamed publications indicate that the [redacted] team, including the Petitioner, won various prizes at [redacted] competitions in [redacted]. Without dates, we cannot tell how many different competitions are discussed.

The regulation requires documentation of the Petitioner’s receipt of his claimed prizes. The Petitioner did not submit documentation from the claimed awarding entity, and the newspaper articles contain minimal information about the prizes and the competitions. Only one article is dated, and even then, that article cited a teammate who “said that other athlete winners” included the Petitioner. Thus, the information about the Petitioner’s performance in the 1996 competition is third-hand, rather than documentation of his receipt of any prize or award.

The [redacted]’s founder states that the event has occurred annually in [redacted] since 1979, and “is recognized worldwide as one of the most important” of its kind. A statement from the event’s own founder cannot suffice to establish the event’s claimed international recognition. Officials of other martial arts schools contend that the [redacted] “is recognized worldwide as one of the most important” and “the greatest tournament in martial arts worldwide,” but the record lacks evidence of a caliber that ought to be readily available if this were the case. These individuals claim that several different martial arts organizations “endorse this tournament,” but the record contains no corroboration from those organizations.

The Petitioner submits what he claims is “an online print-out of the [redacted] Games’ website informing the games will be held in [redacted], Peru in 2019.” The submitted printout is from Wikipedia, not “the [redacted] Games’ website.” Furthermore, the submitted printout concerns “Karate at the 2019 [redacted] Games,” not the [redacted]. The [redacted] Games are held every four years in different locations; the Petitioner acknowledges that the 2019 games were in [redacted]. The [redacted], in contrast, takes place every year, always in [redacted]. There is no evident connection between the events other than the similar names. On appeal, the Petitioner specifically claims to have won prizes “at the [redacted] Games,” and the Director appears to have relied on this information when finding that the Petitioner had satisfied the regulatory requirements of this criterion. The conflation of the [redacted] with the unrelated [redacted] Games raises very serious questions regarding the Petitioner’s credibility and good faith.

We withdraw the Director’s favorable finding because (1) the record does not establish that prizes or awards from the [redacted] are nationally or internationally recognized, and (2) the Petitioner did not submit documentary evidence that he received the claimed prizes or awards from the [redacted].

The Petitioner also submitted copies of certificates, containing the following information:

- The Karate [] Organization gave the Petitioner a certificate of recognition in 2010 “for his valuable contribution and commitment to all the activities of this organization, to promote between children and adults the fundamental values of respect, discipline, and perseverance integral to being human.”
- Another certificate from Karate [] from 2015, recognized the Petitioner’s “long career as an athlete, perseverance and dedication on the formation of martial artists of new generations.”
- The Free Karate Association System of [] gave the Petitioner an “Honor of Merit” in 2015 “for his great career in martial arts . . . , being a fundamental pillar for the formation of new generations of practitioners of our style.”

The Petitioner did not establish that these certificates are nationally or internationally recognized prizes or awards for excellence in the field of endeavor. We note that one certificate from Karate [] bears the Petitioner’s signature, and identifies him as president of the organization. Newspaper clippings in the record appear to indicate that Karate [] originated at [] while the Petitioner was on the “science faculty” there.

The record does not include documentation showing that the Petitioner received nationally or internationally recognized prizes or awards for excellence in his field of endeavor.

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 submitted copies of certificates indicating that he performed functions for the International Sport Karate Association and the World Kickboxing League. The certificates do not specifically refer to the Petitioner as a member of either organization or establish their membership requirements.

The Director found that the Petitioner had not satisfied this criterion. Because the Petitioner has not contested this finding on appeal, he has effectively abandoned it. *See Sepulveda v. U.S. Att’y Gen.*, 401 F.3d 1226, 1228 n. 2 (11th Cir. 2005); *see also, Hristov v. Roark*, No. 09–CV–27312011, 2011 WL 4711885 at *1, *9 (E.D.N.Y. Sept. 30, 2011).

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. 8 C.F.R. § 204.5(h)(3)(iii)

The Petitioner submitted copies of several newspaper clippings, some of which the Petitioner also cited as evidence of his claimed prizes and awards. The Director found these clippings to be deficient because they do not include the required title, date, author, or some combination of these. Clippings from unidentified sources cannot be shown to come from major media. Also, the Petitioner is not the subject

of these article; generally, the articles list participants in competitions, including the Petitioner's name among many others.

Some articles from identified publications mention the Petitioner only briefly. For instance, the previously discussed 1996 article in *Meridiano* named the Petitioner only in the context of a list of competitors. Other articles, such as a 2002 article from *Calidad de Vida*, did not identify the Petitioner at all. These articles are not about the Petitioner as the regulation requires.

Only one submitted article includes the title, author, and date, and devotes significant attention to the Petitioner. A 2000 article in *Torneo* quoted the Petitioner at length regarding a "new training system" at The Petitioner did not submit evidence to show that *Torneo* qualifies as professional or major trade publications or other major media.

Asked for more evidence, the Petitioner submitted background information about *El Nacional*, *Últimas Noticia*, and *Meridiano Television*. The Petitioner relies on this information on appeal as well. The Petitioner has not shown, however, that those media outlets published material about him. One photocopied article shows the title *Últimas Noticia*, but that article mentions the Petitioner only once, when reporting how members of the Petitioner's team performed at a competition. The Petitioner did not establish the connection, if any, between the *Meridiano* newspaper and *Meridiano Television*, and even then, as noted, the *Meridiano* article is about a different athlete and mentions the Petitioner only once.

We agree with the Director's finding that the Petitioner has not satisfied the requirements of this criterion.

Two claimed criteria remain:

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 specification for which classification is sought. 8 C.F.R. § 204.5(h)(3)(iv)

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)

Nevertheless, as shown above, the Petitioner has not satisfied any of the criteria already discussed. As such, the two remaining criteria cannot suffice to meet the Petitioner's initial evidentiary requirements.

Because the Petitioner cannot meet the initial evidentiary requirement of three criteria under 8 C.F.R. § 204.5(h)(3), detailed discussion of the two remaining criteria cannot change the outcome of this appeal. Therefore, we reserve the remaining issues.²

² See *INS v. Bagamasbad*, 429 U.S. 24, 25-26 (1976) (stating that, like courts, federal agencies are not generally required to make findings and decisions unnecessary to the results they reach); see also *Matter of L-A-C-*, 26 I&N Dec. 516, 526 n.7 (BIA 2015) (declining to reach alternative issues on appeal where an applicant is otherwise ineligible).

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.

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.

ORDER: The appeal is dismissed.