



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

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

In Re: 7868093

Date: MAR. 10, 2020

Appeal of Nebraska Service Center Decision

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

The Petitioner, a Greco-Roman wrestler and wrestling coach, seeks classification as an individual 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 Nebraska Service Center denied the petition, concluding that the Petitioner did not satisfy any of the ten initial evidentiary criteria for this classification, of which he must meet at least three. The Director further determined that the Petitioner did not establish that he is coming to the United States to continue work in his area of expertise, or that his entry would substantially benefit prospectively the United States.

On appeal, the Petitioner asserts that the previously submitted evidence demonstrates that he meets four of the ten initial evidentiary criteria and that he is otherwise qualified for the benefit sought.

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 is a Greco-Roman wrestler and coach who has competed primarily in his native country of [REDACTED]. He has a bachelor's degree in sport (wrestling) from the [REDACTED] Institute of Physical Culture.

A. Evidentiary Criteria

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 Director found that the Petitioner submitted evidence relating to four criteria, including lesser nationally or internationally recognized prizes or awards, membership in organizations that require outstanding achievements, published materials, and original athletic contributions of major significance. However, the Director determined that the Petitioner did not meet any of these criteria.

On appeal, the Petitioner maintains that he meets all four criteria, discussed separately below. After reviewing all of the evidence in the record, we find that the Petitioner did not establish that he meets at least three criteria.

Documentation of the individual'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 plain language of the regulation at 8 C.F.R. § 204.5(h)(3)(i) specifically requires that the Petitioner's awards be nationally or internationally recognized in the field of endeavor and it is his burden to establish every element of this criterion. Relevant considerations regarding whether the basis for granting the prizes or awards was excellence in the field include, but are not limited to, the criteria used to grant

the prizes or awards, the national or international significance of the prizes or awards in the field, and the number of awardees or prize recipients as well as any limitations on competitors.¹

The Petitioner provided copies of the following certificates as evidence of his awards in athletic competitions:²

- Two 1st place Diplomas ([redacted] weight category) awarded at “Championship [redacted] of Ministry of Defense of the Republic of [redacted] on Greco-Roman Wrestling” ([redacted] 2014 and 2015)
- 3rd degree Diploma recognizing the Petitioner as “the prize-winner of the championship of [redacted] on Greco-Roman wrestling,” awarded by the [redacted] Ministry of Culture and Tourism ([redacted], 2011).
- 1st place Diploma ([redacted] weight category) awarded by “[redacted]” at the “International Freestyle Wrestling Tournament dedicated to the Day of Remembrance” ([redacted] 1999).
- 2nd category Diploma for 2nd place at the “open championship of the [redacted] on Freestyle Wrestling among schoolchildren” ([redacted] weight category) awarded by the [redacted] Physical Education and Sport Committee (no date).
- 3rd category diploma for 76th place in “the international tournament on Greco-Roman wrestling among juniors born in 1982-83,” awarded by the Committee for Physical Education and Sports of [redacted] (2000).

The Petitioner also provided certificates that did not appear to qualify as “prizes or awards” as they did not indicate his placement in athletic competitions. For example, the record reflects that he received a certificate “in recognition and appreciation” for his contribution to the success of the Asian Junior Wrestling Championship in 2014, and a certificate of participation in the Cadet Asian Championships in 2013. The remaining certificates included a diploma for participation in an international Greco-Roman tournament sponsored by the “Central Council of the [redacted] Volunteer Sports Society of [redacted],” which does not clearly indicate that he placed in his weight category, and a certificate for a first place finish in a boxing event, which is not in his claimed area of extraordinary ability.

The Director requested additional evidence to establish that the submitted certificates demonstrate the Petitioner’s receipt of nationally or internationally recognized awards for excellence in his field. In response, the Petitioner submitted a letter from [redacted] President of the [redacted] Wrestling Association. [redacted] identifies the [redacted] Championship and [redacted] Cup as major athletic competitions in wrestling that are held only once per calendar year. He further notes that

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>.

² At the time of filing, the Petitioner provided an index which listed the Beneficiary’s awards and other diplomas and corresponded to the ten certificates that accompanied it. On appeal, counsel’s brief includes a list of 13 first, second, and third place finishes which includes several awards that did not appear on the original list, and for which no supporting evidence has been provided. For example, the new list indicates that the Beneficiary achieved first and second place finishes at “[redacted] Championships” in 1999, 2000, and 2003, awards which were not mentioned previously. Assertions of counsel do not constitute evidence. *Matter of Obaighbena*, 19 I&N Dec. 533, 534 n.2 (BIA 1988) (citing *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980)). Counsel’s statements must be substantiated in the record with independent evidence.

wrestling competitions in [redacted] are divided into five different ranks and levels, depending on their “scale and sporting significance” as determined by the [redacted] Ministry of Physical Culture and Sports. [redacted]’s letter goes into considerable detail regarding the different levels of competition and discusses at length what is required to earn a “Master of Sport” title in wrestling in [redacted] a title the Petitioner does not claim to possess. [redacted] does not, however, address the specific competitions in which the Beneficiary received award certificates, the competition rank or level assigned to those competitions, or the national or international recognition afforded to those awards.

We acknowledge that one of the Beneficiary’s certificates mentions that he received a “3rd degree diploma” as “the prize-winner of the championship of [redacted] on Greco-Roman wrestling” in 2011. However, according to the certificate, the award was given by the “Ministry of Culture and Tourism.” [redacted] indicates that an organization or agency or with a different name, the “Ministry of Physical Culture and Sports,” governs the [redacted] Championship that is regarded as the sport’s top athletic competition within [redacted]. Because of this difference in the sponsoring organizations’ names, we cannot determine if the Beneficiary’s certificate indicates his receipt of an award at the officially sanctioned national championship in his sport.

Another letter from the [redacted] Wrestling Association indicates that the Petitioner received a bronze medal at the “championship of [redacted]” in 2011, and lists other medals won by the Petitioner which appear to correspond to the submitted certificates, but it does not offer any further commentary on the national or international recognition of these awards. Further, we note that the Petitioner did not provide photographs of any medals received in competition, despite the Director’s request for this evidence, nor does the record contain other supporting evidence, such as official event results recorded or published by the sport’s national federation.

In support of this criterion, the Petitioner also provided evidence that the [redacted] Wrestling Association is recognized as [redacted]’s national federation by United World Wrestling (UWW), as well as copies of the UWW’s constitution and published “International Wrestling Rules.” However, the Petitioner did not explain how this documentation supports its claim that the Beneficiary received nationally or internationally recognized prizes or awards for excellence. The submitted evidence does not indicate that the competitions in which he received certificates were sponsored by the national federation or the UWW, nor does it include information regarding the level of recognition associated with the award certificates.

The Petitioner also submitted an evidentiary exhibit which is claimed to contain “background information regarding previous winners.” The Petitioner included biographies and competition results for four wrestlers from [redacted] but did not elaborate on his reference to them as “previous winners.” For example, the evidence did not show that these athletes had competed in the same competitions in which the Petitioner himself had won awards. Rather, the evidence reflects that they competed and medaled in events such as the European Championship, Asian Games, World Championships and Olympic Games. Even if they also received medals in the same events as the Petitioner, the fact that they went on to achieve success in major international competition does not support a claim that the Petitioner himself received nationally or internationally recognized awards.

Despite the Petitioner’s claims on appeal that he submitted “all reasonably available evidence” pertaining to his awards, most of the evidence provided does not relate to the specific certificates he

won or demonstrate their national or international recognition in the field of wrestling. The documentary evidence as a whole does not demonstrate that the Petitioner's certificates were nationally or internationally recognized awards for excellence in the field.

Finally, the Petitioner provided testimonial evidence from two wrestlers who indicate that they have won nationally and internationally recognized awards and attribute their success to the Petitioner's coaching. In addition, a letter from a representative of the [redacted] Wrestling Association mentions some of the awards and prizes received by athletes claimed to be coached by the Petitioner. However, in order to satisfy the plain language of the regulation, the Petitioner must establish that he himself was the recipient of nationally or internationally recognized awards; awards received by his students do not satisfy this criterion.

Therefore, for the foregoing reasons, the Petitioner has not established that he meets this criterion.

Documentation of the individual'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 asserts that he "has been a member of prestigious associations which clearly require outstanding achievements of their members," and contends that "USCIS erred in not finding that [redacted] National Wrestling Team requires of its members outstanding achievements in the field of wrestling and/or that the Team does not qualify as an organization."

However, the Petitioner did not provide evidence that he was a member of the [redacted] national wrestling team. The evidence submitted in support of this criterion consisted of a letter from [redacted] Vice President of the [redacted] Wrestling Association. As noted in the Director's decision, this letter identifies the Beneficiary's dates of employment as a coach for two different organizations, including the sports association [redacted]. [redacted] notes that "Sports Association [redacted] for Greco-Roman wrestling is a member of sports wrestling in [redacted]" and states that "the members of the society won medals and cups at republic, international competitions." The letter lists the names of athletes who trained at [redacted] and their achievements. [redacted] states the achievements of these athletes "confirm the outstanding reputation of the Sports Association [redacted] as sports organization."

This evidence, which makes no mention of the [redacted] national wrestling team or the Beneficiary's membership on that team, does not support the Petitioner's claims that he qualifies based on his membership on a national team in his sport. Further, the record does not establish that his employment as a coach at a sports club that trained successful competitive wrestlers constitutes "membership in an association" that requires outstanding achievements as judged by national or international experts in the field. Accordingly, the Petitioner did not establish that he meets this criterion.

Published material about the individual 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 a copy of one article titled [REDACTED] [REDACTED] which was published in the newspaper *Enlightenment* on [REDACTED] 2019, more than ten months after he filed this petition.

Under 8 C.F.R. § 103.2(b)(1), the Petitioner must establish eligibility for the requested benefit at the time of filing. While articles published at a later date may be considered in a final merits determination as evidence of sustained national or international acclaim, we will consider only articles that were published before the date of filing to establish eligibility under this criterion. A petition cannot be approved at a future date after the petitioner becomes eligible under a new set of facts. *Matter of Izummi*, 22 I&N Dec. 169, 175 (Comm'r 1998).

As the Petitioner did not submit evidence of any published material about him and relating to his work in the field that pre-dated the filing of the petition, he has not met this criterion.

Evidence of the individual'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)

In order to meet this criterion, a petitioner must establish that he has made original contributions of major significance in the field. For example, a petitioner may show that his contributions have been widely implemented in the field, have remarkably impacted or influenced the field, or have otherwise risen to a level of major significance in the field.

On appeal, the Petitioner argues that he “has made an original athletic contribution of major significance to his field of endeavor by virtue of winning major national and international competitions.” He maintains that he provided “extensive expert testimonials confirming that his accomplishments in his athletic field constitute a contribution of major significance to the sport of Wrestling.” The Petitioner asserts that the Director did not give appropriate weight to “credible expert testimony.”

The Petitioner submitted three letters in support of this criterion, all of which address his contributions as a coach. One of these letters is authored by two Greco-Roman coaches associated with the [REDACTED] Wrestling Association. The coaches mention the Petitioner’s coaching position for the sports association [REDACTED] and note that he “showed himself a competent coach and an experienced mentor.” They also praise the Petitioner’s “high organizational skills,” his ability to “skillfully prepare[] athletes for competitions,” and note that he “constantly studies and introduces innovations of modern sports development.”

The other two letters are from [REDACTED] national team members [REDACTED] who indicate that the Petitioner coached and trained them. [REDACTED] states that the Petitioner helped him prepare for major competitions and states that the Petitioner “has impressed many people with his experience, sports potential and excellent knowledge of sports” and “is well-trained in the sphere of sport legislation.” [REDACTED] states that the Petitioner is known for his “high technical and tactical knowledge in the area of wrestling” and that he has worked with many athletes who competed at the highest international levels. He further states that the Petitioner’s “training method and his achievements as a Greco-Roman wrestling coach represent a significant contribution to the field of Greco-Roman wrestling.”

The letters submitted primarily contain attestations of the Petitioner's skill as a coach without providing specific examples of original contributions that rise to a level consistent with major significance. They do not, for example, describe the "innovations" he brings to his training methods or techniques in support of a claim that he has made an original contribution, nor do the letters explain how his training methods or techniques have had an impact in his sport beyond the individual athletes with whom he has worked. Letters that specifically articulate how a petitioner's contributions are of major significance to the field and its impact on subsequent work add value.³ Letters that lack specifics and use hyperbolic language do not add value, and are not considered to be probative evidence that may form the basis for meeting this criterion.⁴ Moreover, USCIS need not accept primarily conclusory statements. *1756, Inc. v. U.S. Att'y Gen.*, 745 F. Supp. 9, 15 (D.C. Dist. 1990).

While the letters indicate that the Petitioner has coached competitive wrestlers who competed in international athletic events at a high level, he has not shown how these activities equate to "original" athletic contributions of major significance in the field. According to the regulation at 8 C.F.R. § 204.5(h)(3)(v), the contributions must be not only original but of major significance. The testimonial evidence indicates that the Petitioner is a skilled athlete and coach whose students have achieved some notable success in their careers. Although the Petitioner has earned favorable recognition from the authors of the submitted letters, the evidence submitted does not demonstrate that his impact on the sport is commensurate with an original athletic contribution of major significance in the field. Accordingly, this criterion has not been met.

B. Summary and Reserved Issues

As explained above, the submitted evidence does not satisfy any of the initial evidentiary criteria. As the Petitioner has not submitted the required initial evidence of either a one-time achievement or documented that he meets at least three of the ten criteria listed at 8 C.F.R. § 204.5(h)(3)(i)-(x), the appeal will be dismissed.

Since the identified basis for denial is dispositive of the appeal, we decline to reach and hereby reserve the Director's separate determinations that the Petitioner did not establish that he is coming to "continue work in the area of extraordinary ability" and this his entry would "substantially benefit prospectively the United States" under section 203(b)(1)(A)(ii) and (iii) of the Act. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) ("courts and agencies are not required to make findings on issues the decision of which is 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

³ *See* USCIS Policy Memorandum PM 602-0005.1, *supra* at 8-9.

⁴ *Id.* at 9.

have reviewed the record in the aggregate, and conclude 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 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).

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.