



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

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

In Re: 20993209

Date: AUG. 4, 2022

Appeal of Texas Service Center Decision

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

The Petitioner, a soccer player, 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 Texas Service Center denied the petition, concluding that although the Petitioner satisfied at least three of the initial evidentiary criteria, as required, he did not show his sustained national or international acclaim and demonstrate that he is among that 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)(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 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) (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

A. Evidentiary Criteria

Because the Petitioner has not claimed or established that he 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 determined that the Petitioner met four of the claimed evidentiary criteria relating to awards at 8 C.F.R. § 204.5(h)(3)(i), memberships at 8 C.F.R. § 204.5(h)(3)(ii), published material at 8 C.F.R. § 204.5(h)(3)(iii), and leading or critical role at 8 C.F.R. § 204.5(h)(3)(viii).¹ However, the Director concluded that the Petitioner did not show that he garnered sustained national or international acclaim and that his achievements have been recognized in the field of expertise, demonstrating that he is one of that small percentage who has risen to the very top of the field. On appeal, we will review the totality of the evidence in the context of the final merits determination below.²

B. Final Merits Determination

As the Director concluded that the Petitioner submitted the requisite initial evidence, we will evaluate whether he has demonstrated, by a preponderance of the evidence, his sustained national or

¹ In one portion of the decision, the Director listed the evidence relating to the leading or critical role criterion and stated that “the submitted evidence does not meet this criterion.” However, in discussing the final merits determination regarding the leading or critical role criterion, the Director stated that “the record shows that the [Petitioner] has played a critical and/or leading role for organizations with a distinguished reputation.” Regardless, because the Director concluded that the Petitioner satisfied at least three evidentiary criteria, we will evaluate the totality of the evidence in the final merits determination.

² *See 6 USCIS Policy Manual* F.2(B)(2), <https://www.uscis.gov/policymanual>.

international acclaim,³ that he is one of the small percentage at the very top of the field of endeavor, and that his achievements have been recognized in the field through extensive documentation. In a final merits determination, we analyze an individual'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. *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 1119-20.⁴ In this matter, we determine that the Petitioner has not shown his eligibility.

The Petitioner, who is 37 years-old, submitted evidence reflecting some successes and attention in 2015 when he played for the [redacted] of the [redacted]. However, in considering the totality of the evidence, the Petitioner has not 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). Furthermore, the Petitioner has not shown that he garnered sustained national or international acclaim and that he has risen to that small percentage who has risen to the very top of the field of endeavor. *See* section 203(b)(1)(A)(i) of the Act and 8 C.F.R. § 204.5(h)(2) and (3).

Based on his résumé, the Petitioner played at the youth and amateur level for [redacted] (1998 – 2000), winning the "Vice-champion" in the Brazil x Japan Tournament, and for [redacted] (2000 – 2003), winning the "Vice-champion" at the 4th [redacted] Tournament. The Petitioner also listed several tournaments and events for each team. However, the Petitioner did not provide evidence supporting his assertions on his résumé, nor did he demonstrate the significance of the events. In addition, the record does not reflect that he received any acclaim, notoriety, or attention from his participation on these teams during this period.

According to his résumé and screenshots from [redacted] and wikipedia.org, the Petitioner professionally played soccer for approximately 15 years for the following teams:

- [redacted] (2003 – 2005)
- [redacted] (2005)
- [redacted] (2006)
- [redacted] Sport Club (2006 – 2007)
- [redacted] Sport Club (2007)
- [redacted] SC (2008)
- [redacted] Sport Club (2009 – 2010)
- [redacted] (2011)
- [redacted] (2013)
- [redacted] (2013 – 2014)
- [redacted] FC (2015 – 2016)
- [redacted] (2017)

³ *See* 6 USCIS Policy Manual, *supra*, at F.2(A)(1) (stating that such acclaim must be maintained and providing *Black's Law Dictionary's* definition of "sustain" is "to support or maintain, especially over a long period of time . . . To persist in making (an effort) over a long period of time").

⁴ *See* 6 USCIS Policy Manual, *supra*, at F.2(B)(2) (instructing that USCIS officers should then evaluate all the evidence together when considering the petition in its entirety for the final merits determination, in the context of the high level of expertise for this immigrant classification).

- [redacted] SC Indoor (2017 – 2019)
- [redacted] Football Team (2018)
- [redacted] Arena Soccer (2018)

Prior to 2013, the record contains minimal, if any, documentation of both his performance and subsequent acclaim in the field. According to his résumé, the [redacted] Sport Club won the [redacted] State Championship in 2007 and [redacted] SC earned Vice-Champion status in 2008. The Petitioner also claimed various events for the teams, such as the [redacted] State Federation Cup for [redacted] [redacted] in 2006 and the [redacted] State Championship for [redacted] Sport in 2011. Again, the Petitioner did not provide evidence supporting his assertions on his résumé, nor did he demonstrate the significance of the awards or events. Moreover, the Petitioner did not show how he contributed to the teams' successes or how he distinguished himself from the other players reflecting that he was among that small percentage at the very top of the field.⁵

During this timeframe, the Petitioner submitted 18 articles mainly about the teams in which he is briefly mentioned as a member. Further, the record reflects only two 2007 articles showing substantive press coverage of the Petitioner.⁶ In fact, the record contains one article from 2004, one article from 2005, nine articles from 2006, and 7 articles from 2007. Here, the Petitioner has not established any media reporting of him in 2003 and from 2008 – 2012. Besides evidence of his employment, the record contains no other evidence of his soccer experience from 2008 – 2012, let alone any receipt of accomplishments, achievements, or acclaim in this period.

From 2013 - 2014, the Petitioner indicated that he played for the [redacted] and the [redacted] [redacted] in the United States. The record contains only one article in this period reporting that the Petitioner signed with the [redacted]. In addition, the Petitioner indicated that the [redacted] were “Vice-Champions” in 2014 and submitted a 2014 [redacted] Championship medal. The Petitioner offered no other evidence relating to his playing experience with the [redacted] and did not demonstrate any acclaim he received from playing with the [redacted].⁷ He did not, for example, show any attention he received or was credited with significantly influencing the [redacted] performance, placing him among that small percentage at the top of the field.

In 2015, the Petitioner's most documented success, he played for the [redacted] in [redacted]. During this time, the Petitioner received the “2015 [redacted]” recognizing the top 11 players in the [redacted]. In addition, he earned one “Player of the Week” honor and was selected to the “Team of the Week” four times. Further, the [redacted] chose him as the [redacted] and the team won the [redacted] championship. Further, the Petitioner provided over 30 articles relating to the [redacted] games in which he is mentioned as being a contributor in the respective games, including coverage of his awards. In addition, the Petitioner served as captain of the [redacted]. Besides serving as captain for the

⁵ The Petitioner submitted screenshots from *Wikipedia* regarding background information for [redacted] [redacted] Sport Club, and [redacted] Sport Club. Although he also provided photographs and contracts for these teams establishing his employment with them, the evidence does not indicate his performances, accomplishments, roles, or otherwise show that he garnered any acclaim when he competed for them.

⁶ See [redacted] 2007 article from *DM Esportes* and [redacted] 2007 article from *O Popular*.

⁷ The Petitioner's résumé claims that the [redacted] participated in the [redacted] Cup (2013)” and [redacted] (2013).” The record contains no evidence to support this assertion, nor did the Petitioner show the significance of his performance at these events.

[redacted] in 2016, the Petitioner provided over ten articles that reported on the [redacted] games in which he was referenced as one of the players in the various games during the season.

In 2017, the Petitioner returned to [redacted] to play for [redacted]. Although the Petitioner provided about eight articles reporting on him signing with the team, the record reflects that he only played in two games. Moreover, the [redacted] competed in the second division rather in the country's top division. Then in the same year, the Petitioner returned to the United States to play for the [redacted] [redacted] in the [redacted] Arena Soccer League. The Petitioner provided two articles reporting on him signing with the team. Further, an article from the [redacted] website indicated that the Petitioner played in only one game with an injury ending his season.

In 2018, the Petitioner was selected to the [redacted] Team in the [redacted] [redacted] and served as its captain. The Petitioner submitted an article from the [redacted] website reflecting that the Petitioner "is fully recovered," and indicating that the [redacted] team finished in fourth place. The Petitioner indicated that he has signed a contract with the [redacted] through August 2021.

As indicated above, the Petitioner has played soccer, both at the amateur/youth and professional levels, for approximately 20 years. However, for the reasons discussed above, the Petitioner has not shown that he garnered sustained national or international acclaim and that his accomplishments and achievements have placed him among that small percentage at the very top of the field. The commentary for the proposed regulations implementing section 203(b)(1)(A)(i) of the Act provides that the "intent of Congress that a very high standard be set for aliens of extraordinary ability is reflected in this regulation by requiring the petitioner to present more extensive documentation than that required" for lesser classifications. 56 Fed. Reg. 30703, 30704 (July 5, 1991). Here, the Petitioner has not sufficiently documented his soccer career that shows a career of sustained acclaim and meets this very high standard.

Again, the Petitioner garnered some awards in the 2015 season when he played for the [redacted]. However, he has not demonstrated how his receipt of these accolades in 2015, without any documented before or after, reflects that he "is one of that small percentage who [has] risen to the very top of the field of endeavor." See 8 C.F.R. § 204.5(h)(2). USCIS has long held that even athletes performing at the major league level do not automatically meet the statutory standards for classification as an individual of "extraordinary ability." *Matter of Price*, 20 I&N Dec. 953, 954 (Assoc. Comm'r 1994).

In addition, the Petitioner demonstrated that he was a member of the [redacted] Team in 2018. However, the Petitioner did not show that his recent single team membership resulted in sustained national or international acclaim or reflects "that small percentage who [has] risen to the very top of the field of endeavor." See section 203(b)(1)(A)(i) of the Act and 8 C.F.R. §204.5(h)(2) and (3). The record, for instance, does not contain media coverage or other evidence showing that he received national or international recognition based on his membership with the team. Furthermore, the Petitioner did not establish that he distinguished himself from others at the tournament, gaining national or international attention in the field.

Regarding published material about him, the majority of the media coverage represents the 2015 season, along with some additional, limited reporting for the 2016 season. However, the Petitioner

did not demonstrate that published material from 2015 – 2106 represents sustained national or international acclaim necessary for this highly restrictive classification. *See* section 203(b)(1)(A) of the Act. Further, the Petitioner did not show that his overall press coverage is indicative of a level of success consistent with being among “that small percentage who [has] risen to the very top of the field of endeavor.” 8 C.F.R. § 204.5(h)(2). Moreover, the Petitioner did not establish that media reporting concentrated in 2015 - 2016 reflects a “career of acclaimed work in the field” or a “very high standard . . . to present more extensive documentation than that required.” *See* H.R. Rep. No. at 59 and 56 Fed. Reg. at 30704.

Moreover, the Petitioner served as captain for the [redacted] in 2015 and 2016 and for the [redacted] Team in 2018. While we acknowledge that the [redacted] won a championship in 2015 under his leadership, the Petitioner did not demonstrate that his role was reflective of, or resulted in, widespread acclaim from his field or that he is considered to be at the very top of the field of endeavor. *See* 8 C.F.R. § 204.5(h)(2). The Petitioner did not establish that he garnered acclaim or extensive recognition from the field based on his leadership, representing sustained national or international acclaim or a “career of acclaimed work in the field.” *See* section 203(b)(1)(A) of the Act and H.R. Rep. No. at 59.

We note here that the Petitioner provided recommendation letters praising him for his skills and abilities. For instance, [redacted] head coach for the [redacted] discussed the Petitioner’s “unique anticipation method” and “game methodology.” Moreover, [redacted] retired soccer player, opined on the Petitioner’s “time abroad and his diverse experience in a range of clubs have developed in him a versatility that is most desirable in soccer.” Further [redacted], president of the [redacted] indicated that the Petitioner was “an integral player of the successful 2015 [redacted] team.” Although the letters commend the Petitioner on his play, they do not contain sufficient information and explanation to show that he is viewed by the overall field, rather than by a solicited few, as being among the upper echelon or that he garnered recognition on a national or international scale, consistent with being among the small percentage at the very top of the field of endeavor.⁸ Further, the letters do not establish that he has made impactful or influential contributions in the greater field reflecting a career of acclaimed work in the field, garnering the required sustained national or international acclaim. *See* H.R. Rep. No. at 59 and section 203(b)(1)(A) of the Act.

The record as a whole, including the evidence discussed above, does not establish the Petitioner’s eligibility for the benefit sought. Here, the Petitioner seeks a highly restrictive visa classification, intended for at the top of their respective fields. *See Price*, 20 I&N Dec. at 954 (concluding that even major league level athletes do not automatically meet the statutory standards for classification as an individual of “extraordinary ability,”); *Visinscaia*, 4 F. Supp. 3d at 131 (internal quotation marks omitted) (finding that the extraordinary ability designation is “extremely restrictive by design,”); *Hamal v. Dep’t of Homeland Sec. (Hamal II)*, No. 19-cv-2534, 2021 WL 2338316, at *5 (D.D.C. June 8, 2021) (determining that EB-1 visas are “reserved for a very small percentage of prospective immigrants”). *See also Hamal v. Dep’t of Homeland Sec. (Hamal I)*, No. 19-cv-2534, 2020 WL 2934954, at *1 (D.D.C. June 3, 2020) (citing *Kazarian*, 596 at 1122 (upholding denial of petition of a

⁸ *See* 6 USCIS Policy Manual, *supra*, at F.2(B)(1) (providing that letters indicating that a beneficiary is a competent, respectable figure within the field of endeavor but the record lacks sufficient, concrete evidence supporting such statements do not necessarily show the beneficiary’s claimed extraordinary ability).

published theoretical physicist specializing in non-Einsteinian theories of gravitation) (stating that “[c]ourts have found that even highly accomplished individuals fail to win this designation”); *Lee v. Ziglar*, 237 F. Supp. 2d 914, 918 (N.D. Ill. 2002) (finding that “arguably one of the most famous baseball players in Korean history” did not qualify for visa as a baseball coach). While the Petitioner need not establish that there is no one more accomplished to qualify for the classification sought, the record is insufficient to demonstrate that he has sustained national or international acclaim and is among the small percentage at the top of his field. *See* section 203(b)(1)(A)(i) of the Act and 8 C.F.R. § 204.5(h)(2).

III. CONCLUSION

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.