



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

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

In Re: 20828278

Date: SEP. 14, 2022

Appeal of Nebraska Service Center Decision

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

The Petitioner, a Brazilian jiu-jitsu athlete and 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 record did not establish that the Petitioner satisfied the initial evidence requirements for this classification by documenting his receipt of a major, internationally recognized award or, in the alternative, by meeting at least three of the ten regulatory criteria at 8 C.F.R. § 204.5(h)(3). The matter is now before us on appeal.

In these proceedings, it is the Petitioner's burden to establish eligibility for the requested benefit by a preponderance of the evidence. *See* Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010). We review the questions in this matter *de novo*. *See Matter of Christo's Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). 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 the 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).

II. ANALYSIS

The record reflects that the Petitioner is a competitive athlete and coach in Brazilian jiu-jitsu and has successfully competed in in the [] category at regional, national, and international jiu-jitsu competitions. Because the Petitioner does not claim, and the record does not establish, that he has received a major, internationally recognized award under the regulation at 8 C.F.R. § 204.5(h)(3), he must satisfy at least three of the ten regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x). The Petitioner initially claimed that he could meet five of these criteria:

- (i), Lesser nationally or internationally recognized awards;
- (ii), Membership in associations that require international achievements;
- (iii), Published materials in major trade or professional publications or other major media;
- (iv), Participating as a judge of the work of others in the field; and
- (viii), Performing in leading or critical roles for organizations or establishments with a distinguished reputation.

In denying the petition, the Director concluded that the Petitioner fulfilled only two of the five claimed criteria, lesser nationally or internationally recognized awards at 8 C.F.R. § 204.5(h)(3)(i) and judging at 8 C.F.R. § 204.5(h)(3)(iv). The record supports the Director’s determination that the Petitioner meets these two criteria based on his receipt of medals at IBJJF World [] Jiu-Jitsu Championship and Brazilian National Championship events and based on his documented participation as a referee for jiu-jitsu competitions.

On appeal, the Petitioner maintains that he meets two additional criteria based on his membership in an association that requires outstanding achievements of its members and based on his performance in a leading or critical role for an organization that has a distinguished reputation. The Petitioner does not pursue his initial claim that he meets the published materials criterion at 8 C.F.R. § 204.5(h)(3)(iii) and does not contest the Director’s determination that he did not submit evidence that meets this

criterion. Therefore, we deem this issue to be waived and will not further address it in this decision. *See, e.g., Matter of M-A-S-*, 24 I&N Dec. 762, 767 n.2 (BIA 2009).

After reviewing all the evidence in the record, we conclude that the Petitioner has not established that he meets at least three of the ten evidentiary criteria.

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 claims that he meets this criterion based on his membership in the International Brazilian Jiu-Jitsu Federation (IBJJF) as a certified black belt. To satisfy this criterion, the Petitioner must show that he is a member of an association in his field, and 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

At the time of filing, the Petitioner submitted a copy of his black belt certificate issued by [redacted] of [redacted] Brazilian Jiu-Jitsu Team in January 2019. The initial evidence also included an excerpt from the IBJJF publication titled *General System of Graduation*. Article 5.1 of this publication lists the “IBJJF Basic Requirements to Obtain the Black Belt Certificate and Degrees,” which states that an applicant for an IBJJF black belt certificate or degree:

- Must be affiliated to IBJJF in the current year
- Can not be an athlete with provisional graduation
- Must provide First Aid or CPR course certificate
- Must attend an IBJJF Referee Course within a 12-month period before the date of the request
- Must be a professor or assistant professor at an academy affiliated with IBJJF or an athlete practicing jiu-jitsu in an IBJJF-registered academy who was graduated by a professor who is a black belt with at least 2 degrees certified by IBJJF.

Article 4.1.3 of this IBJJF publication further address the degree system for athletes who have achieved a black belt ranking. It states that “promotion to a new degree in the black belt is only valid starting from the issuance of an IBJJF diploma, after the applicant meets the basic requirements present in Article 5.”

The Petitioner's initial evidence included articles identifying IBJJF as “one of the most prestigious and recognized jiu-jitsu competition organizations” and “the most important and dominant federation in [the] sport.” The Petitioner also submitted two academic papers (a journal article and a master's thesis) whose authors state that the Brazilian jiu-jitsu black belt is recognized as one of the most difficult black belts to achieve in martial arts, often requiring a decade or more of dedicated training.

¹ See 6 USCIS Policy Manual F.2 appendix, <https://www.uscis.gov/policy-manual/volume-6-part-f-chapter-2> (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).

In a request for evidence (RFE), the Director observed that the black belt certificate alone was insufficient to demonstrate that the Petitioner satisfies all elements of this criterion, and emphasized that, although the Petitioner submitted information regarding IBJJF's belt graduation system, he did not provide evidence of his IBJJF membership.

In response, the Petitioner submitted a screenshot from the Petitioner's member page on IBJJF showing that he is a certified black belt member. The Petitioner also re-submitted excerpts from the IBJJF *General System of Graduation* publication. In a supporting letter, the Petitioner emphasized that a certified black belt represents a high level of membership in IBJJF and that the information contained in the IBJJF publication is sufficient to establish by a preponderance of the evidence that the achievement of membership in IBJJF with a black belt certification requires outstanding achievements as judged by recognized national or international experts in the field.

The Director acknowledged the requirements for black belt certification set forth at Article 5.1 of the IBJJF *General System of Graduation* but determined that those requirements do not discuss in detail what is required to become a member of the association and therefore do not show that membership requires outstanding achievements as judged by recognized national or international experts in the field. Accordingly, the Director concluded that the Petitioner did not demonstrate that he meets this criterion.

On appeal, the Petitioner asserts that the Director failed to properly weigh the submitted evidence. The Petitioner emphasizes that "[regular] membership in IBJJF is something that can be applied for through their website and does not require extraordinary ability. It is the obtaining of the rank of black belt *through* the IBJJF is what requires extraordinary ability." The Petitioner also submits new evidence on appeal, including: his IBJJF Black Belt Certificate issued on [] 2021; additional excerpts from the IBJJF's *General System of Graduation*; and a chart that summarizes the IBJJF graduation system.

Upon review, we conclude that the Petitioner has not established that he satisfies this requirement based on his IBJJF membership as a certified black belt. As a preliminary matter, we note that the evidence submitted on appeal indicates that the IBJJF recognized the Petitioner's completion of all requirements for his certified black belt in [] 2021, more than one year after he filed this petition. While the Petitioner previously submitted his black belt certificate issued in 2019 by the academy where he trains in Brazil, the record does not establish that this certificate was registered with or recognized by IBJJF at the time or that it automatically resulted in his membership as an IBJJF-certified black belt.

The IBJJF's *General Systems of Graduation* indicates that the federation distinguishes between academy-issued black belt graduation certificates and IBJJF-issued black belt diplomas. For example, Article 4.1.3 states that "every promotion to a new degree in the black belt is only valid starting from the issuance of an IBJJF diploma, after the applicant meets the basic requirements present in Article 5." Therefore, there is insufficient evidence that the Petitioner had an IBJJF-certified black belt membership as of the date of filing. The Petitioner must establish that all eligibility requirements for the immigration benefit have been satisfied from the time of the filing and continuing through adjudication. 8 C.F.R. § 103.2(b)(1).

Further, the stated “Basic Requirements” to obtain an IBJJF black belt certificate include submission of an application as well as evidence of “affiliation to IBJJF,” completion of a first aid or CPR course, attendance at an IBJJF Referee course, and evidence of practicing or teaching jiu-jitsu at an IBJJF-affiliated academy for a specific period. Based on these stated requirements, receipt of initial membership as a black belt-certified member of IBJJF does not involve a process by which one must be judged as having outstanding achievements by recognized national or international experts in the field.

The Petitioner highlights Article 5.2.1 of the IBJJF *General System of Graduation*, which states that “the Black belt certification graduation for each new degree is an individual process that depends on a thorough analysis by the IBJJF including examination of documents. . .” However, there is no evidence that the Petitioner has been granted any certificate from the IBJJF beyond the initial black belt certificate or that his membership has been reviewed according to these requirements, which appear to be applicable only to additional black belt degrees.² Further, it is unclear what is entailed by the IBJJF’s “thorough analysis” of documents or what criteria are considered in such review, such that we could conclude that additional degrees require outstanding achievements.

We acknowledge the Petitioner’s assertion that acquiring the advanced knowledge and skills necessary for black belt certification in jiu-jitsu is a demanding process that requires years of training and dedication, and that earning a black belt represents a significant achievement for practitioners of the sport. However, for the reasons discussed above, the evidence submitted here does not show that the Petitioner has a membership in an association that satisfies all elements of the criterion at 8 C.F.R. § 204.5(h)(3)(ii).

Evidence that the individual 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 Director determined that the Petitioner did not demonstrate that he has performed in a leading or critical role for an organization with a distinguished reputation and referenced letters from [redacted] [redacted] Brazilian Jiu-Jitsu Academy in Brazil), [redacted] [redacted] (owner of [redacted] in [redacted] Utah), and [redacted] (a Utah-based Judo coach and special education teacher).³

On appeal, the Petitioner states the Director’s determination was “in error” but he does not further address how the previously submitted evidence satisfies all elements of this criterion or identify any specific errors in the Director’s analysis of this criterion. Rather, he appears to suggest that the Director overlooked evidence that he served in a leading or critical role for [redacted] a Brazilian

² Based on the IBJJF Degree System described at Article 4.1.3 of the *General System of Graduation*, “the first degree can only be requested after a minimum of three (3) years of the black belt graduation” and “every promotion to a new degree in the black belt is only valid starting from the issuance of an IBJJF diploma, after the applicant meets the basic requirements present in Article 5.” Because the Petitioner’s IBJJF black belt diploma was issued in [redacted] 2021, the record reflects that he would not become eligible to apply for a first-degree black belt certification from IBJJF until [redacted] 2024.

³ The record reflects that the letters from [redacted] and [redacted] were submitted as evidence that the Petitioner intends to continue to work in his area of extraordinary ability and that his work will substantially benefit prospectively the United States, as required by section 203(b)(1)(A)(ii) and (iii) of the Act. While it appears that [redacted] business employed the Petitioner as a jiu-jitsu coach and instructor at the time of the RFE response, the Petitioner did not claim to meet the criterion at 8 C.F.R. § 204.5(h)(3)(viii) based on his employment with [redacted]

jiu-jitsu academy in [redacted] Utah. We observe that the record contains two letters from [redacted] owner of [redacted] both of which were submitted to establish that the Petitioner met the judging criterion at 8 C.F.R. § 204.5(h)(3)(viii) based on his service as a referee for tournaments hosted by [redacted].

Specifically, the Petitioner states, “[w]e understand that it may not have been initially presented as clearly as possible the role that [the Petitioner] plays at [redacted] and how it would be considered leading or critical.” The Petitioner indicates that he is submitting “an updated letter from [redacted] more carefully outlining [his] role in their organization”; however, the submission on appeal does not include an additional letter from this organization or any other new evidence related to [redacted]. The Petitioner has re-submitted a letter from [redacted] dated February 26, 2020, which was initially provided at the time of filing.

The previously submitted letters from [redacted] confirm that the Petitioner served as a referee for three one-day tournaments hosted by this academy between [redacted] 2018 and [redacted] 2020 and emphasize that referees are volunteers and not employees of the company. [redacted] states that his academy has a regional reputation for hosting highly competitive jiu-jitsu tournaments. The Petitioner maintains that, as a referee, he “plays a critical role in the success of the competitions that [redacted] a distinguished organization, hosts on a regular basis.”

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.⁴ Here the statements provided by [redacted] do not provide detailed and probative information addressing how the Petitioner’s role as a volunteer jiu-jitsu referee for three one-day tournaments has contributed in a way that is of significant importance to the outcome of [redacted] activities. Without information and evidence documenting the impact and importance of any work the Petitioner has conducted for [redacted], the record does not demonstrate the critical nature of his role for this organization. Further, the record does not contain evidence demonstrating that [redacted] enjoys a distinguished reputation, as the evidence is limited to letters from the organization and photographs from matches refereed by the Petitioner.

The record reflects that, prior to the denial of the petition, the Petitioner claimed that he met this criterion based on his role as a coach, instructor and competitor with [redacted] Brazilian Jiu Jitsu Academy in [redacted] Brazil. As noted, the Petitioner has not specifically contested the Director’s determination this he does not meet this criterion based on his role with this organization. Nevertheless, we observe that the record does not contain sufficient evidence to establish that this academy has a distinguished reputation. The Petitioner emphasized the “excellence” of the academy’s results in competition, but the supporting evidence was limited to articles from unidentified newspapers reporting on the results of the team’s athletes. This media coverage appears to be local in nature and this evidence alone is insufficient to establish that the organization or establishment is recognized as having a distinguished reputation in the field.

For the reasons discussed above, the Petitioner has not established that he meets this criterion.

⁴ See 6 USCIS Policy Manual, *supra*, at F.2 appendix.

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 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. 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.