



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

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

In Re: 25483383

Date: MAR. 7, 2023

Appeal of Nebraska Service Center Decision

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

The Petitioner, an athlete, 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 the Petitioner had not established eligibility as an individual of extraordinary ability, either as the recipient of a major, internationally recognized award, or by meeting at least three of the ten regulatory criteria listed at 8 C.F.R. § 204.5(h)(3)(i) – (x). The matter is now before us on appeal. 8 C.F.R. § 103.3.

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). We review the questions in this matter de novo. *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

To qualify under this immigrant classification, the statute requires the filing party demonstrate:

- The foreign national enjoys extraordinary ability in the sciences, arts, education, business, or athletics;
- They seek to enter the country to continue working in the area of extraordinary ability; and
- The foreign national's entry into the United States will substantially benefit the country in the future.

Section 203(b)(1)(A)(i)–(iii) of the Act. 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 international 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 criteria 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, 1121 (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 Amin v. Mayorkas*, 24 F.4th 383, 394 (5th Cir. 2022).

## II. ANALYSIS

The Petitioner is a mixed martial arts (MMA) athlete who intends to represent the United States in national and international competitions and, “in the future, coach future American athletes for the world leadership in this field.”

The Director concluded that the Petitioner has not established that he has received a major, internationally recognized prize or award under 8 C.F.R. § 204.5(h)(3) and that the evidence in the record demonstrates that he only meets one of the ten alternate criteria at 8 C.F.R. § 204.5(h)(3)(i)–(x), of which he must meet at least three. Specifically, the Director held that he only met the criteria for published material under 8 C.F.R. § 204.5(h)(3)(iii).

On appeal, the Petitioner asserts the following: (1) that he has received a major, internationally recognized award; and (2) that he meets these alternate criteria: awards at 8 C.F.R. § 204.5(h)(3)(i), membership at 8 C.F.R. § 204.5(h)(3)(ii), original contribution at 8 C.F.R. § 204.5(h)(3)(v), and leading or critical role at 8 C.F.R. § 204.5(h)(3)(viii). For the reasons discussed below, we conclude that the record does not support a finding that the Petitioner satisfies the requirements for an individual of extraordinary ability.

### A. Major International Award

As determined by the Director, the Petitioner has not established that he has earned a one-time achievement of a major, internationally recognized award under 8 C.F.R. § 204.5(h)(3). This regulation is consistent with the legislative history of section 203(b)(1)(A) of the Act, 8 U.S.C. § 1153(b)(1)(A), stating that a one-time achievement must be a *major, internationally recognized* award. *See* H.R. Rep. 101-723, 59 (Sept. 19, 1990), *reprinted in* 1990 U.S.C.C.A.N. 6710, 1990 WL 200418 at \*6739. The House Report specifically cited to the Nobel Prize as an example of a one-time achievement.

Here, the record reflects that the Petitioner won an Ultimate Fighting Championship (UFC) Fight Night [redacted] in [redacted] 2016. The record contains an analysis of the fight from UFC.com and an article about the fight from bloodyelbow.com. The Petitioner asserts that this constitutes a one-time achievement of a major, internationally recognized award. However, he has not submitted documentation to substantiate this claim or to establish that winning UFC Fight Night

[redacted] would constitute a major, international award. Therefore, the evidence in the record does not establish that the Petitioner has earned a major, internationally recognized award.

## B. Evidentiary Criteria

*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 Petitioner continues to contend that he has won major UFC awards, including the Performance of the Night and Fight of the Night awards. Although he has provided information regarding UFC, the evidence is insufficient to establish that these awards are nationally or internationally recognized awards for excellence in the field of endeavor. For example, the Petitioner did not submit supporting documentary evidence in the form of official entry requirements from UFC or other evidence to establish the significance of the events within the sport.

A UFC competition may be open to athletes from throughout a particular country or countries, but this factor alone is not adequate to establish that an award or prize from that competition is nationally or internationally recognized. The burden is on the Petitioner to demonstrate the level of recognition and achievement associated with his awards. The submitted documentation does not establish that the Petitioner's awards had a substantial level of recognition beyond the context of the event where it was presented and was therefore commensurate with a nationally or internationally recognized prize or award for excellence in the field.

The Petitioner also submitted a Brazilian jiu-jitsu belt certificate for his attainment of a black belt ranking, but this certificate does not equate to nationally or internationally recognized prizes or awards for excellence in the field. The black belt certificate reflects that the Petitioner earned a promotion in rank based on his successful completion of a jiu-jitsu skills test, but he has not established that his promotion to this rank constitutes either a prize or an award, nor has he submitted documentation, such as media reports, demonstrating that his rank has received national or international recognition. In light of the above, the Petitioner has not established that he meets this regulatory criterion.

*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 claimed membership with UFC and submitted documentation regarding the entity. Although the Petitioner provided a printout from UFC's website entitled "Apply to Be a Fighter," the document only provides a website address for fighters to create a profile in order to submit their application. The documentation does not show UFC's membership requirements. Thus, the Petitioner has not shown that membership with UFC requires outstanding achievements as an essential condition for membership. Therefore, he does not meet this criterion.

*Evidence of the alien'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).

The Petitioner contends that his MMA fights and tournaments serve as evidence of his original contributions of major significance in the field. While he demonstrated that he participated in MMA-related events, the Petitioner has not shown how such participation is tantamount to original contributions of major significance in the field. He did not, for instance, point to a particular match or provide a specific example explaining its impact or unusual importance to MMA.

In addition, the Petitioner contends that the Director failed to consider the letters of support submitted by MMA experts and, therefore, it is violation of due process. The letters discuss the Petitioner's achievements as an MMA fighter, as well as his signature move called [REDACTED]. The letters, however, do not provide specific information explaining how the Petitioner's signature move has influenced the MMA field in a significant manner beyond its impact on the Petitioner winning two fights in 2014 and 2016. *See Visinscaia*, 4 F. Supp. 3d at 134-35 (upholding a finding that a ballroom dancer had not met this criterion because she did not corroborate her impact in the field as a whole). The letters considered above primarily contain attestations of the Petitioner's status in the field without providing specific examples of contributions that rise to a level consistent with major significance. Letters that specifically articulate how a petitioner's contributions are of major significance to the field and its impact on subsequent work add value.<sup>1</sup> On the other hand, letters that lack specifics and use hyperbolic language do not add value and are not considered to be probative evidence that forms the basis for meeting this criterion.<sup>2</sup> Moreover, USCIS need not accept primarily conclusory statements. *1756, Inc. v. The U.S. Att'y Gen.*, 745 F. Supp. 9, 15 (D.C. Dist. 1990).

While the Petitioner has competed in MMA fights and participated in extensive martial arts training, 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. While this suggests that he is knowledgeable and skilled in MMA, it does not establish that he has made original athletic contributions of major significance in the field. Although the Petitioner has earned the admiration of his references, 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.

*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 asserts that he has performed in a leading or critical role for UFC as its strongest member. In general, a leading role is evidenced from the role itself, and a critical role is one in which a petitioner was responsible for the success or standing of the organization or establishment.

Although he demonstrated that he competed in UFC fights and tournaments, the Petitioner has not shown how his role as a competitive fighter is reflective of a leading role for them. The record does

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<sup>1</sup> See generally USCIS Policy Memorandum PM 602-0005.1, *supra*, at 8-9.

<sup>2</sup> *Id.* at 9. See also *Kazarian*, 580 F.3d at 1036, *aff'd* in part 596 F.3d at 1115 (holding that letters that repeat the regulatory language but do not explain how an individual's contributions have already influenced the field are insufficient to establish original contributions of major significance in the field).

not include evidence, for example, differentiating his role as a competitor from the roles of the other competitors or employees of UFC. Furthermore, he has not indicated where his position fits in the overall hierarchy of the UFC organization. Without evidence establishing that he performed in a leading role, the Petitioner's role as a competitor in and of itself is insufficient to show that it is leading consistent with the plain language of this regulatory criterion.

Regarding the critical nature of his role at UFC, the Petitioner has not demonstrated how he impacted their standings in the field. For instance, he did not show that UFC garnered attention or increased attendance based on his event appearances. For these reasons, the Petitioner has not met his burden of demonstrating his eligibility under 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 do not need to 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 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 that goal. 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 won some UFC fights, but the record does not demonstrate the required sustained national or international acclaim, 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 they are one of the small percentage who has risen to the very top of the field of endeavor. *See* section 203(b)(1)(A) and 8 C.F.R. § 204.5(h)(2).

For the reasons discussed above, the Petitioner has not demonstrated their 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.