



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

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

In Re: 30185472

Date: APR. 03, 2024

Appeal of Texas Service Center Decision

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

The Petitioner, a handball 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 (EB-1) 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 the record did not establish that the Petitioner had satisfied at least three of the ten initial evidentiary criteria for this classification, as required. The matter is now before us on appeal.

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**

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 their 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 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) (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 Petitioner stated that he is a former reserve member of the [redacted] Handball team, a Master of Sports of Russia, and [redacted] of a Russian professional handball club. The Petitioner further submitted evidence reflecting that he attended [redacted] in Russia where he played handball and formulated a study guide/manual related to training and teaching the sport. The Petitioner asserts that he is a “world renowned athlete who has risen to the very top of his field.”

### 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 determined that the Petitioner only met the plain language requirements of the two evidentiary criteria relating to awards at 8 C.F.R. § 204.5(h)(3)(i) and a judge of the work of others at 8 C.F.R. § 204.5(h)(3)(iv).

The Director determined that the Petitioner met the 8 C.F.R. § 204.5(h)(3) evidentiary criteria relating to awards (i) and judging (iv). On appeal, the Petitioner asserts that he meets the evidentiary criteria relating to membership (ii), contributions of major significance (v), and leading or critical role (viii). Previously on the record, the Petitioner also indicated that he was eligible under published materials (vi) and high salary (ix), but he does not assert his eligibility under these criteria on appeal. The Petitioner further does not assert eligibility under original contributions (v), authorship (vi), display of work (vii), or commercial success (x) criteria. Therefore, we deem these issues to be waived and will not address these criteria in our decision. *See, e.g., Matter of M-A-S-*, 24 I&N Dec. 762, 767 n.2 (BIA 2009). While we may not discuss every document in the record, we have reviewed and considered each one. Based on our de novo review, we conclude that the Petitioner has not established that he meets the requirements of at least three 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).*

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.<sup>1</sup>

The Director determined that although the Petitioner provided evidence to indicate that he had achieved the title of master of sports of Russia, he submitted no evidence to demonstrate that this was an association, or a form of membership as defined by regulations. The Director further concluded that the Petitioner did not establish that his asserted membership in the Conference of Handball Federation of Russia (Russian handball federation) met this criterion. Specifically, the Director concluded the submitted evidence did not sufficiently demonstrate that the Russian handball federation required outstanding professional achievements as recognized by national or international experts.

On appeal, the Petitioner contends that the submitted bylaws of the Russian handball federation establish that membership in the organization requires the outstanding achievement of its members. The Petitioner asserts that the Russian handball federation is the “utmost authority in the nation within this field and athletes cannot go any further than being a member.” The Petitioner further points to his title master of sports of Russia and asserts that this is only assigned to “distinguished players” receiving this honor “during a special award ceremony.” In addition, the Petitioner cites statistics indicating that only approximately 0.2-2.4% of athletes become professionals and that it is “difficult to estimate the percentage of sportsman globally who become champions or masters of sport as there are many different sports and competitions around the world.”

Upon review, we conclude that the Petitioner did not establish that he satisfies this criterion based on his membership in the Russian handball federation. As discussed by the Director, the Petitioner did not submit sufficient objective evidence to demonstrate that membership in the handball federation requires outstanding achievements as required by the regulations. The Petitioner also does not articulate on appeal why the Director's determination with respect to the Russian handball federation and its membership requirements were in error, nor does he discuss what outstanding achievements in his field led to his selection.

To illustrate, the Petitioner submitted the “Charter of the Conference of the Handball Federation of Russia” discussing in section 3.2.1 the criteria required for being a member. This section stated that a candidate must have made “a significant contribution to the development of handball in Russia documented by the Ministry of Sports and Tourism of the Russian Federation or the Ministry of Education of the Russian Federation.” Therefore, without further explanation or evidence, it does not

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<sup>1</sup> 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).

appear that membership in the Russian handball federation requires outstanding achievements, since its charter only discusses a “*significant contribution* [emphasis added] to the development of handball in Russia.” The Petitioner does not specify what significant contribution led to his selection, nor how a significant contribution (singular) meets the regulatory criteria of outstanding achievements (plural) in the field. The language of the charter also states that the significant contribution must be “documented” by one of two ministries of the Russian Federation, however, it is not clearly explained how this equates to being judged or recognized by national or international experts as having outstanding achievements in the field. On appeal, the Petitioner does not otherwise articulate why membership in the Russian handball federation requires outstanding achievements, but only asserts that it is “utmost authority in the nation within this field and athletes cannot go any further than being a member.” Even if we accepted this contention, this does not demonstrate that membership in the Russian handball federation requires outstanding achievements in the field, particularly since its charter appears to indicate otherwise.

Further, the Petitioner has not demonstrated that the title master of sports of Russia requires outstanding achievements as judged by recognized national or international experts. As discussed by the Director, the Petitioner has not clearly established that the title master of sports in Russia is an association with members, as it appears to be an honorary title and/or award. On appeal, the Petitioner also does not articulate how the Director erred in concluding that being conferred this title did not meet the criteria. In addition, the Petitioner emphasizes that this title is conferred during a “special award ceremony,” suggesting in that it is an honor, rather than an association with membership. It is also questionable whether the title master of sports of Russia is specific to the Petitioner’s field, handball, and reflective of outstanding achievement therein, as it appears it could be awarded to any athlete in any sport.

Finally, the Petitioner points to statistics indicating that only approximately 0.2-2.4% of athletes become professionals, suggesting that this demonstrates his eligibility under this criterion. However, even if we accept these statistics, they relate to all professional athletes, not those within the Petitioner’s field of handball. The Petitioner also does not explain how these general statistics relating to all professional athletes establish his membership in an association based on being judged by recognized national or international experts as having outstanding achievements in the field. For instance, although becoming a professional athlete is a remarkable achievement, it is not an association with members with specifically defined criteria for membership.

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 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 satisfy the regulation at 8 C.F.R. § 204.5(h)(3)(v), a petitioner must establish that not only has he made original contributions, but that they have been of major significance in the field. For example, a Petitioner may show that the contributions have been widely implemented throughout the

field, have remarkably impacted or influenced the field, or have otherwise risen to a level of major significance.<sup>2</sup>

In support of the petition, the Petitioner stated that the Beneficiary authored a study guide/manual for teaching handball at the university-level that was recognized by the Russian Federal Ministry of Education and “indicative of or consistent with recognition in the field.” The Petitioner further pointed to an expert opinion submitted from [redacted] a Sports and Fitness Director and Professor at [redacted] stating that after a year of work the university had published the Petitioner’s training manual titled [redacted] opined that “it was a miracle that the designated expert commission from the federal Ministry of Education cleared this study guide for publication in our teaching program” and that he “anticipate[d] a huge impact of this publication on sports study in our university with [sic] prospective to be adopted by other universities.”

In the request for evidence (RFE), the Director acknowledged the published material discussed by the Petitioner but indicated that the provided evidence did not demonstrate its major significance to the field of handball. The Director further explained that the expert letter from [redacted] did not provide specific examples as to how the Petitioner’s study guide/manual had been of major significance to the field. Therefore, the Director requested that the Petitioner provide sufficient objective documentary evidence to demonstrate that his work was of major significance in the field, such as evidence to establish that others in the field consider his work important, it provoked widespread commentary, or it was widely cited or implemented by others in the field.

In response, the Petitioner provided additional documentary evidence related to this criterion but did not explain how it established his eligibility. For instance, the Petitioner provided another letter of recommendation from [redacted] again discussing the Petitioner’s development of “the first methodological recommendations in teaching handball” that “formed a new perspective on the teaching of handball and played a critical role in future development.” Further, the Petitioner submitted another letter of recommendation from the president of [redacted] discussing the Petitioner’s handball study guide/manual, its approval by the Ministry of Education, and its inclusion in the educational program of the university. The president also opined that the Petitioner’s “manual allowed the university to develop in this sphere, to educate specialists in the field of theoretical training in handball, and to reduce the number of sports injuries among handball players.”

In concluding that the Petitioner did not meet this criterion, the Director determined that the evidence submitted was not sufficient to establish the major significance of his handball study guide/manual in the field. Again, the Director acknowledged that the Petitioner may have published material related to handball but concluded he did not sufficiently demonstrate that his work was widely cited or adopted, as necessary to demonstrate that it was of major significance in the field. The Director addressed that the Petitioner provided evidence to reflect he was invited to a handball specific educational conference but indicated he did not submit documentary evidence to demonstrate how this reflected his contributions of major significance in the field. Likewise, the Director discussed the submitted letters of recommendation and determined that the letters did not discuss how the

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<sup>2</sup> See 6 USCIS Policy Manual F.2.

Petitioner's study guide/manual was of major significance in the field by pointing to independent, objective evidence. On appeal, the Petitioner states that he provided extensive documentation to satisfy this criterion and contends that the conclusion of the Director was "an arbitrary conclusion not supported by substantial evidence."

First, the Petitioner does not specifically articulate on appeal how the Director's determinations with respect to this criterion represented an "arbitrary conclusion." We note that that the Petitioner must specifically identify any erroneous conclusion of law or statement of fact in the unfavorable decision. 8 C.F.R. § 103.3(a)(1)(v). Regardless, the submitted evidence does not sufficiently establish that the Petitioner's handball study guide/manual was of major significance in the field. Even if we accept that the Petitioner's original material was adopted and published by his university, it is not clear how this establishes that it was of major significance in the field of handball. For instance, the Petitioner provided little objective documentary evidence, as requested by the Director, to establish that his study guide/manual provoked widespread commentary in the field of handball or that it was widely cited or implemented by others in the field.

The Petitioner largely relies on recommendation letters from officials from his university, however, the statements of [redacted] and the university's president do not support a conclusion that his study guide/manual on handball has been of major significance in the field. For example, [redacted] indicated that he "anticipate[s] a huge impact" resulting from the Petitioner's work and noted that it would play a "critical role in the future development" of handball training techniques. However, [redacted] assertions discuss the potential significance of the Petitioner's study guide/manual, discussing only its potential for impacting future development, rather than its major significance in the field as of the date the petition was filed. In fact, the president of [redacted] stated that the study guide/manual had allowed the university only to "develop in this sphere" and to educate specialists in the field, but he did not sufficiently discuss how it was of major significance in the field overall. In addition, the president emphasized that the Petitioner's "theoretical training in handball" and how it reduced the number of sports injuries among handball players. However, the president of [redacted] provides little objective support for this assertion and the Petitioner provided no other documentary evidence to support that his training methods have had an impact of major significance on injuries in the field of handball or that his training methods have been widely adopted.

The Petitioner must resolve inconsistencies and ambiguities in the record with independent, objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988). The affected party has the burden of proof to establish eligibility for the requested benefit at the time of filing the benefit request and continuing until the final adjudication. 8 C.F.R. § 103.2(b)(1); *see also* *Matter of Katigbak*, 14 I&N Dec. 45, 49 (Comm'r 1971). Further, we may, in our discretion, use advisory opinion statements from universities, professional organizations, or other sources submitted in evidence as expert testimony. However, where an opinion is not in accord with other information or is in any way questionable, we are not required to accept or may give less weight to that evidence. *Matter of Caron Int'l*, 19 I&N Dec. 791 (Comm'r 1988).

Because the Petitioner has not established that these personal achievements are original contributions which have been of major significance to the sport of handball, we conclude that he does not meet this criterion.

*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).

As it relates to a leading role, the evidence must establish that a petitioner is or was a leader. A title, with appropriate matching duties, can help to establish if a role is or was, in fact, leading. 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. In addition, this criterion requires that the organizations or establishments must be recognized as having a distinguished reputation, which is marked by eminence, distinction, or excellence.<sup>3</sup>

In concluding that the Petitioner had not met this criterion, the Director again discussed the letters emphasized by the Petitioner from [redacted] and the president of [redacted]. The Director concluded that these letters did not sufficiently address how his role was leading or critical for the organization, nor how his university (or another identified organization or establishment) had a distinguished reputation. On appeal, the Petitioner again emphasizes the letters submitted from [redacted] and the president of [redacted]. The Petitioner asserts that it has provided "extensive documentation" and "certainly satisfied this criterion." The Petitioner once again indicates that the Director's conclusion with respect to this criterion was "arbitrary."

Yet again, the Petitioner does not articulate on appeal how the Director's determinations with respect to this criterion were "arbitrary." 8 C.F.R. § 103.3(a)(1)(v). As noted, the Petitioner emphasizes the submitted recommendation letters on appeal. However, neither recommendation letter directly addresses the Director's conclusion that he provided insufficient evidence to establish that his university, or any other organization or establishment he had a role with, had a distinguished reputation. In fact, the Petitioner does not specifically articulate for whom he played a leading or critical role, such as the university as a whole or just a department therein, nor did he clearly indicate whether his role was leading or critical. For these reasons alone, the Petitioner has not met this criterion.

In addition, as discussed by the Director, the recommendation letters do not specifically discuss how the Petitioner's role was leading or critical. For instance, the Petitioner cites a quote from the president of [redacted] on appeal discussing how his study guide/manual "helped to introduce the system of teaching European handball to a wider audience," reflected "positive results" following a "one-year study," "helped to reduce the number of sports injuries among handball players," and educated "specialists in the field of theoretical training in handball." However, even if the president of [redacted] articulated how the Petitioner's role was leading or critical, he provided little support for his conclusions in the letter, such as how the Petitioner's methods had been introduced to a wider European audience, details related to the one-year study conducted about his work, or evidence to support that his work led to reduced injuries amongst handball players. As noted, both recommendation letters assert that the Petitioner's work has led to potential future university

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<sup>3</sup> See 6 USCIS Policy Manual F.2.

development in the field, but they do not sufficiently establish that his role was leading or critical, nor that the university (or another identified organization or establishment) for which he played a role had a distinguished reputation. Again, we may, in our discretion, use advisory opinion statements from universities, professional organizations, or other sources submitted in evidence as expert testimony. However, where an opinion is not in accord with other information or is in any way questionable, we are not required to accept or may give less weight to that evidence. *Matter of Caron Int'l*, 19 I&N Dec. at 791.

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

#### B. Summary and Reserved Issue

The record does not establish that the Petitioner meets at least three of the initial evidentiary criteria discussed above. As such, the Petitioner has not met the initial evidentiary requirement of three criteria under 8 C.F.R. § 204.5(h)(3). Detailed discussion of the remaining criteria at 8 C.F.R. § 204.5(h)(i) and (viii) cannot change the outcome of the appeal. Therefore, we reserve and will not address these remaining issues. *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 D-L-S-*, 28 I&N Dec. 568, 576-77 n.10 (BIA 2022) (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 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 material in the aggregate, concluding that while the Petitioner has achieved some success as a powerlifting athlete and coach, the record does not support a conclusion that he 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 not shown the significance of their 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 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 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.