



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

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

MATTER OF X-N-

DATE: APR. 20, 2016

APPEAL OF TEXAS SERVICE CENTER DECISION

PETITION: FORM I-140, IMMIGRANT PETITION FOR ALIEN WORKER

The Petitioner, a gymnastics coach, seeks classification as an individual of extraordinary ability in athletics. *See* Immigration and Nationality Act (the Act) § 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, Texas Service Center, denied the petition. The Director concluded that the Petitioner did not submit the necessary initial evidence meeting at least three evidentiary criteria.

The matter is now before us on appeal. In his appeal, the Petitioner addressed the points the Director raised. After reviewing the record, we issued a request for evidence (RFE) regarding a criterion that had not been addressed. The Petitioner timely responded with additional documents and a brief.

Upon *de novo* review, we will sustain the appeal.

I. LAW

Section 203(b) of the Act states in pertinent part:

(1) Priority workers. -- Visas shall first be made available . . . to qualified immigrants who are aliens described in any of the following subparagraphs (A) through (C):

(A) Aliens with extraordinary ability. -- An alien is described in this subparagraph 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 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).

Satisfaction of at least three criteria, however, does not, in and of itself, establish eligibility for this classification. *See Kazarian v. USCIS*, 596 F.3d 1115 (9th Cir. 2010) (discussing a two-part review where the evidence is first counted and then, if satisfying the required number of criteria, considered in the context of a final merits determination). *See also Rijal v. USCIS*, 772 F.Supp.2d 1339 (W.D. Wash. 2011) (affirming our proper application of *Kazarian*), *aff'd*, 683 F.3d 1030 (9th Cir. 2012); *Visinscaia v. Beers*, 4 F.Supp.3d 126, 131-32 (D.D.C. 2013) (finding that we appropriately applied the two-step review); *Matter of Chawathe*, 25 I&N Dec. 369, 376 (AAO 2010) (holding that the "truth is to be determined not by the quantity of evidence alone but by its quality" and 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").

II. ANALYSIS

The Director found the Petitioner did not submit the necessary initial evidence because he did not satisfy any of the criteria listed at 8 C.F.R. § 204.5(h)(3)(i) – (x). The Director's decision addresses five of the ten criteria directly. On appeal, the Petitioner focused on the Director's concerns. After reviewing the record, we issued an RFE to the Petitioner requesting additional material related to a criterion not specifically addressed in the Director's denial. The Petitioner responded with additional material. After consideration of all documentation provided, including material not before the Director, we find that the Petitioner has given initial evidence meeting at least three criteria and demonstrated extraordinary ability by showing he is one of the small percentage who has risen to the very top of the field of endeavor.

A. Evidentiary Criteria

After reviewing the record, we find that the Petitioner meets the following three criteria listed at 8 C.F.R. § 204.5(h)(3)(i) – (x).

(b)(6)

Matter of X-N-

Evidence of the alien's participation, either individually or on a panel, as a judge of the work of others in the same or an allied field of specification for which classification is sought.

In his initial submission, the Petitioner provided a copy of a [REDACTED] indicating his licensure as a category IV judge since [REDACTED], 2009, by the [REDACTED] the [REDACTED]. An RFE issued by the Director stated that the Petitioner satisfied this criterion with this evidence. In the denial, however, the Director found the Petitioner had not satisfied this criterion, reasoning the license shows he was qualified to judge, but does not establish that he actually participated in judging the work of others in the same or an allied field.

On appeal, the Petitioner presents a letter from the president of the [REDACTED] that lists six national gymnastics competitions at which the Petitioner served as a judge. This evidence, in conjunction with the previously submitted documentation, shows the Petitioner's participation as a judge of the work of others in the same or an allied field of specification for which classification is sought. As result, he has met the plain language of this criterion.

Evidence of the alien's original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field.

The Petitioner demonstrated that he participated as a gymnastics expert in the compilation of the gymnastics portion of [REDACTED] published by the [REDACTED] of the [REDACTED] spent three years completing the book, which focuses on the [REDACTED] in which [REDACTED]. The stated purpose of the gymnastics program is to develop an organized mechanism for training youth and keeping the dominant position of the Chinese in international competition. The 2009 version of the program replaced the previous version compiled in 1989. According to the Petitioner, there were 23 gymnastics officials, advanced coaches, experts, and scholars chosen to take part in the compilation process. Due to the authority of the publication in China, the Petitioner's contribution to the syllabus constitutes an athletic contribution of major significance in the field of gymnastics. For this reason, he has met the plain language of this criterion.

Evidence that the alien has performed in a leading or critical role for organizations or establishments that have a distinguished reputation.

Upon *de novo* review, we invited the Petitioner to submit additional evidence regarding his role as a gymnastics coach at the [REDACTED]. The Petitioner provided a timely response with a brief and additional documentation, including material regarding the Petitioner's position within the school's gymnastics program. A consideration of the entire record indicates the Petitioner has satisfied the plain language of this criterion.

(b)(6)

Matter of X-N-

_____ is one of China's national key sports institutions under the direct leadership of the _____. It has programs in multiple sports, including gymnastics, fencing, martial arts, table tennis, volleyball, and badminton. According to a website on studying in China, the _____ "is one of the most famous teams." The school was founded in _____ and has cultivated _____ athletes, with famous alumni that include athlete and movie star, _____ as well as the first Chinese gymnast to win an _____. Due to the school's longstanding history of developing some of the world's best athletes, the _____ is an establishment with a distinguished reputation.

The Petitioner has worked for _____ as a gymnastics coach since 1990. He is one of four head gymnastics coaches and the only one who has trained an _____. The Petitioner included two letters from former student, _____ at the _____. _____ indicates the importance of the Petitioner's training and influence on his future achievements. In response to our RFE, _____ confirms that the Petitioner continued coaching _____ when he "became an _____ and during the _____. _____ as well as the _____. A list of the Petitioner's coaching accomplishments from _____ includes _____. The record also includes an article on the Petitioner from _____ describing how he discovered the now _____. After seeing the boy's performance, the Petitioner recruited him to enroll in _____. In the years that followed, _____ had numerous victories. Most recently, he was selected for the national team and is a candidate for the _____. This documentation demonstrates the Petitioner's importance to _____ due to his ability to identify and cultivate young gymnasts at the highest levels for the school.

The material in the record from _____ website indicates that production of successful athletes is its first priority. Gymnastics, in particular, is central to the institution and its reputation; specifically, of the eight gold medals won by alumni of the institution, four have been in gymnastics. As a coach that recruits and develops the school's best gymnastics talent, we find that the Petitioner has played a critical role as a head gymnastics coach at _____ an establishment with a distinguished reputation.

B. Merits Determination

As the Petitioner has provided initial evidence meeting at least three of the required regulatory criteria, we now consider all of the documentation submitted in assessing whether he has shown extraordinary ability as a gymnastics coach.

Though not determinative of his preeminence as a coach, the Petitioner's expertise in gymnastics generally is supported by his own prior success as a gymnast. The Petitioner provided evidence showing that he contributed to numerous Men's Team Titles at the _____ between 1978 and 1982. After retiring as a gymnast, he studied at _____ before becoming a full-time coach in 1990.

(b)(6)

Matter of X-N-

As indicated above, the Petitioner has played a critical role in his position as a head gymnastics coach at [REDACTED] a sports training academy with a distinguished reputation. He has trained students at the highest levels for over fifteen years, indicating a sustained career. The Petitioner provided data from [REDACTED] detailing the following coaching accomplishments. These include the following:

Year	Student	Competition	Event	Award
1995	[REDACTED]	[REDACTED]	Group, all-around; floor exercise; pommel horse; vault; parallel bars; horizontal bar	[REDACTED]
1996	[REDACTED]	[REDACTED]	All-around; pommel horse	[REDACTED]
2001	[REDACTED]	[REDACTED]	Parallel bars	[REDACTED]
2002	[REDACTED]	[REDACTED]	Pommel horse	[REDACTED]
2005	[REDACTED]	[REDACTED]	Parallel bars	[REDACTED]
2006	[REDACTED]	[REDACTED]	Pommel horse	[REDACTED]
2007	[REDACTED]	[REDACTED]	Team, vault	[REDACTED]
2010	[REDACTED]	[REDACTED]	Horizontal bar	[REDACTED]
2010	[REDACTED]	[REDACTED]	All-around	[REDACTED]
2011	[REDACTED]	[REDACTED]	Pommel horse	[REDACTED]
2011	[REDACTED]	[REDACTED]	Pommel horse	[REDACTED]
2012	[REDACTED]	[REDACTED]	All-around; pommel horse; parallel bars	[REDACTED]
2012	[REDACTED]	[REDACTED]	Pommel horse	[REDACTED]

The Petitioner provided two letters from his former student, [REDACTED], winner of a [REDACTED] at the [REDACTED]. In addition to his [REDACTED] at the [REDACTED] the [REDACTED] and gold medals for the men's team, all-around and [REDACTED] events at the [REDACTED]. He also contributed to the [REDACTED]. [REDACTED] attests to the importance of the Petitioner's influence; he credits the [REDACTED]

(b)(6)

Matter of X-N-

Petitioner with teaching him the fundamentals necessary to achieve a [REDACTED]. According to [REDACTED] the Petitioner taught him the importance of posture and fluidity of movement, both of which were essential for his career advancement. Most significantly, [REDACTED] confirms that the Petitioner continued as [REDACTED] coach during these accomplishments.

The Petitioner also demonstrated that, as a coach, he is able to identify young athletes with the greatest potential. In 2004, the Petitioner selected [REDACTED] from a group of young gymnasts and recruited him to [REDACTED]. After several successes as a student training under the Petitioner, [REDACTED] is now on the [REDACTED] and a contender for a spot on the [REDACTED].

Recognition of the Petitioner's expertise as a coach is reflected by the decision to include him as a member of the committee responsible for drafting the [REDACTED] syllabus for gymnastics training. Selection for this role is particularly indicative of acclaim due to the preeminence of China in Olympic competition, especially in gymnastics. Further indication of the Petitioner's abilities is his [REDACTED] judging license and evidence that he has judged [REDACTED].

Evidence in the record shows the Petitioner has risen to the very top of his field of endeavor as a gymnastics coach. Letters, articles, and other corroborating documents demonstrate his sustained acclaim and recognition in the field. As a result, the Petitioner has established his extraordinary ability as a gymnastics coach.

III. CONCLUSION

The Petitioner has shown his extraordinary ability by satisfying at least three regulatory criteria, as well as demonstrating a level of expertise indicating he is one of that small percentage who have risen to the very top of the field of endeavor. Section 203(b)(1)(A)(i) of the Act. The Petitioner has shown that he seeks to enter the United States to continue to work in his area of extraordinary ability. Section 203(b)(1)(A)(ii) of the Act. By demonstrating that he seeks to continue to work in his area of extraordinary ability, and there being no indication otherwise, we are satisfied that the Petitioner's entry will substantially benefit prospectively the United States. Section 203(b)(1)(A)(iii) of the Act. Therefore, the Petitioner has met the burden of proof necessary to establish eligibility for the benefit sought. Sections 203(b)(1)(A), 291 of the Act.

ORDER: The appeal is sustained.

Cite as *Matter of X-N-*, ID# 15507 (AAO Apr. 20, 2016)