



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

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

MATTER OF E-S-

DATE: MAY 19, 2016

APPEAL OF NEBRASKA SERVICE CENTER DECISION

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

The Petitioner, a cycling coach, seeks classification as an individual of extraordinary ability in athletics. *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, Nebraska Service Center, denied the petition. The Director concluded that the Petitioner did not submit the necessary documentation to meet at least three initial evidence criteria.

The matter is now before us on appeal. In his appeal, the Petitioner submits additional exhibits and a brief. He indicates that he has satisfied at least three initial evidence criteria and shown that he has extraordinary ability as a cycling coach.

Upon *de novo* review, we will dismiss 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 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).

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), *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 provide documentation satisfying any of the criteria listed at 8 C.F.R. § 204.5(h)(3)(i) – (x). Upon *de novo* review, we find that the record satisfies at least three of these criteria. In our final merits determination, however, we conclude that the Petitioner did not demonstrate extraordinary ability by showing he is one of that small percentage who have risen to the very top of the field of endeavor. 8 C.F.R. § 204.5(h)(2).

A. Evidentiary Criteria

As a preliminary matter, the Petitioner has offered numerous foreign language documents with accompanying translations. The regulation at 8 C.F.R. § 103.2(b)(3) provides: "Translations. Any document containing a foreign language submitted to USCIS shall be accompanied by a full English language translation which the translator has certified as complete and accurate, and by the translator's certification that he or she is competent to translate from the foreign language into English." With both his initial filing and his response to the Director's request for evidence, the Petitioner supplied a single certification stating that "this translation has been done by me and is true, accurate and correct with the document presented to me." In neither case does the certification, which is worded in the singular, name the Petitioner, identify the items reviewed, or otherwise

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indicate that the signatory performed all translations in the submission. Given all of these factors, we find that the certifications in the record are not probative evidence that the certifier performed all of the translations in the record as required under 8 C.F.R. § 103.2(b)(3). Nevertheless, even if the Petitioner had provided the necessary translation certifications for the petition's foreign language exhibits, we would conclude that he did not demonstrate eligibility for the benefit sought, as analyzed and discussed below.

Published material about the individual in professional or major trade publications or other major media. The materials must relate to the individual's work in the field for which classification is sought. Such evidence shall include the title, date, and author of the material, and any necessary translation.

The Director found the Petitioner did not satisfy this criterion, noting that, although he supplied copies of online articles that included postings in [REDACTED] the Petitioner did not demonstrate that the articles were (1) about him, and (2) published in major media. On appeal, the Petitioner states that the articles provided are "about" him, as they discuss either his opinions about cycling or his role as a cycling coach. In addition, he argues that the evidence shows [REDACTED] should be considered major media.

Upon review of the information provided, we agree that the article from [REDACTED] entitled "[Petitioner] Received the First Coaching Diploma from [REDACTED] in Cycling" satisfies this criterion. The article discusses the Petitioner's attendance at a cycling coach training program held by the [REDACTED]. An article about the steps the Petitioner has taken to develop skills as a cycling coach is about him and related to his work in the field. In addition, the record contains evidence showing that the [REDACTED] is the semi-official news agency of Iran, supporting its classification as major media. For these reasons, if we accepted the translations, the Petitioner would have satisfied the plain language of this criterion.

Evidence of the individual'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.

Although not specifically raised under this criterion, the Petitioner provided a letter from [REDACTED] President of the [REDACTED] dated August 13, 2013, discussing the Petitioner's appointment as Talent Identification Coach for the organization. While this letter is unsigned, the Petitioner also submitted an online notice posted by the [REDACTED] regarding a cycling camp organized to identify talent. The posting names the Petitioner as one of the coaches at the event. This documentation shows that in this position, the Petitioner identified and judged the talent of young cyclists. As a result, this evidence satisfies the plain language of the criterion.

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Evidence of the individual's authorship of scholarly articles in the field, in professional or major trade publications or other major media.

The Petitioner provided evidence that he authored a paper entitled "The survey of psychological characteristics of elite cyclists of Iran" published in the foreign-language journal, [REDACTED]. The Director found the article did not satisfy this criterion. Upon review, however, we note that the paper reports the findings of a scientific study, contains an explanation of the research methodology used, and cites other scholarly articles. Two of the co-authors are professors at the [REDACTED] and the [REDACTED]. The Petitioner also submitted a sheet with a summary of the paper under the header: [REDACTED] suggesting the paper was presented at the conference. All of these factors support consideration of the piece as a scholarly article. In addition, the journal in which the article appears, [REDACTED] publishes a variety of scholarly articles on topics related to its overarching theme, supporting its classification as a professional publication. For these reasons, the article identified above meets the plain language of the criterion.

B. Final Merits Determination

Assuming the Petitioner's translations complied with 8 C.F.R. § 103.2(b)(3), the Petitioner would have submitted the requisite initial evidence. Accordingly, we now conduct a final merits determination that considers the entire record in the context of whether or not the Petitioner has demonstrated extraordinary ability as a cycling coach by showing he has a level of expertise indicating he is one of a small percentage who have risen to the very top of the field of endeavor. Section 203(b)(1)(A) of the Act; 8 C.F.R. § 204.5(h)(2), (3); *see also Kazarian*, 596 F.3d at 1119-20.

The Petitioner submitted a number of documents regarding his involvement with the Iranian youth national cycling team. The probative value of this material is somewhat limited, however, due to anomalies in appearance and discrepancies in content. In his initial filing, the Petitioner gave four letters from the [REDACTED]. For three of these, the Petitioner provided a letter in English followed by a letter in Farsi. A comparison of three of the Farsi letters that follow the English letters indicates, however, that the Farsi versions are copies of the same letter, albeit with different alignment and replication sizes. The English, however, varies. Accordingly, while two of the English versions are signed, these variable letters from different individuals are not translations of the copies of the same Farsi letter that appear behind each English version.

In the event the Petitioner intended the English letters to be considered photocopies of originals, anomalies in the documentation reduce their probative weight. Three of the English letters are on [REDACTED] letterhead. Each of these letters is a copy that contains the same letterhead shrunk to a different percentage of the petitioner's 8.5 x 11" sized paper. The first copy shows letterhead that is nearly the full size of the 8.5 x 11" sheet of paper. The other two letters have letterhead shrunk by different amounts. Despite the varying relative sizes of the letterhead, the size of the text font and [REDACTED] stamp remain identical across all three letters.

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In addition to these anomalies, the letters' content raises questions. A letter dated March 11, 2012, from [REDACTED] President of [REDACTED] states that the Petitioner acted as the national coach of the Iranian junior cycling team from July 23, 2010, to March 19, 2012. The second of these dates had not yet occurred on the date the letter was written. Neither the letter nor other evidence submitted explains why the letter refers to a future date in the past tense. More significantly, the Petitioner also provided another letter on [REDACTED] letterhead dated June 23, 2012, from [REDACTED] the organization's Secretary General, indicating that the Petitioner served as the junior national team coach from January 2009 to January 2012. The record does not contain information to resolve the discrepancy between these two letters in terms of the dates the Petitioner acted as coach.

The Petitioner listed two competitions in which junior national team cyclists competed during his tenure as coach: the 2011 [REDACTED] and the 2011 [REDACTED]. In Thailand, athletes on the Petitioner's team won a [REDACTED] in the individual time trial, [REDACTED] in the 3k, and [REDACTED] in the team pursuit. In [REDACTED] they won [REDACTED] and [REDACTED]. Although these finishes reflect success, the Petitioner does not name any other events during which he served as a coach. The Petitioner has not met his burden of showing that his limited coaching experience of two distinguished but junior level competitions is indicative of his status at the very top of his field.

The Petitioner also provided several printouts from material posted on [REDACTED] website confirming that he served in different refereeing capacities for four different cycling races in 2013 and 2014. Additional posts that name the Petitioner as a referee or commissar appear on the [REDACTED] website as well as on other unidentified websites. This documentation supports the Petitioner's statement that he has refereed competitions; however, he does not submit evidence showing that this activity is indicative of extraordinary ability as a cycling coach. Specifically, as the record does not corroborate the duties of the position, the Petitioner has not established whether his activities involved judging the cycling ability of other cyclists or just enforcement of the rules. The Petitioner does not suggest that selection as a referee or commissar is reserved for those few who are the top of their field rather than those familiar with the rules. Similarly, he did not give information showing the competitions he refereed were prestigious or noteworthy.

With respect to the Petitioner's services as a talent coach, the letter discussing these duties is unsigned. In addition, the record contains no evidence of the significance of coverage by [REDACTED]. Accordingly, the Petitioner has not established that he received recognition for these services at a level consistent with national or international acclaim or that his selection is indicative of such acclaim.

The Petitioner maintains that he is the first Iranian cycling coach to complete the [REDACTED] of the [REDACTED]. He provided a portion of the [REDACTED] information pack which indicates that the program is separated into three levels: the Level 1 Coaching Certificate, the Level 2 Coaching Certificate, and the [REDACTED] Diploma. Level 1 focuses on the foundations of coaching, Level 2 focuses on developing riders beyond the basics, and the Diploma is the highest

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recognition of coaching training. As evidence of his completion of this course, the Petitioner submitted certificates from [REDACTED] for Level 1, Level 2, and the Diploma completed at the [REDACTED] in [REDACTED] Switzerland from May 3, 2010, to June 25, 2010. A second certificate for his completion of Level 1 training reflects, however, that he took that course in [REDACTED] Iran, between July 27, 2011, and August 5, 2011. The record does not otherwise show that the Petitioner took the Level 1 course twice, nor does it explain the inconsistent dates and location. The Petitioner has not resolved the discrepancy with independent, objective evidence pointing to where the truth lies. *See Matter of Ho*, 19 I&N Dec. 582, 591-592 (BIA 1988).

Regardless of incongruities, the Petitioner has not shown that completion of the [REDACTED] training is indicative of extraordinary ability as a cycling coach. The portion of the [REDACTED] information pack in the record reflects that, in order to enroll in one of the courses, applicants must be at least 18 years of age and complete a course application form and coach profile. The documents provided do not list any other requirements. In addition, the materials do not suggest that completion of the course and receipt of the final diploma is an achievement only attainable by those few at the very top of the field. As a result, though completion of the course establishes coaching training and knowledge, it does not demonstrate the Petitioner's extraordinary ability.

The Petitioner provided copies of online articles about his work in the field of cycling. In addition to the [REDACTED] article discussed above, the Petitioner offered an article posted on January 5, 2011, to [REDACTED] webpage reports that junior cyclists are training to take part in the [REDACTED] and names the Petitioner as the team coach. The record also contains a print-out from the [REDACTED] dated November 26, 2011, which reports on his opinion regarding the need for a standard cycling track in Iran. An article posted on December 22, 2011, on the [REDACTED] quotes the Petitioner regarding the junior national team's training and preparedness for the upcoming [REDACTED]. An article dated July 31, 2013, from the [REDACTED] states the Petitioner translated the four volume publication [REDACTED] into Farsi. Finally, the Petitioner supplied a post from [REDACTED] dated September 3, 2013, regarding the formation of a committee to identify young cycling talent. The piece names the Petitioner as one of the talent coaches. Each of these printouts is less than one page. They discuss the events and circumstances stated elsewhere. The Petitioner has not given evidence to suggest that these articles are indicative of the acclaim necessary for this classification. Rather, they seem to be reporting on events in the cycling world and mention the Petitioner in that context, without focusing on his achievements. The record also lacks evidence regarding the significance of any of the media outlets other than [REDACTED]. The limited coverage is not indicative of the Petitioner's status among the small percentage who have risen to the top of the field of endeavor.

The Petitioner offered letters of reference from several individuals familiar with his work in different capacities.¹ Two of the letters are from professors at the [REDACTED] the Petitioner's alma mater. Although the professors may know the Petitioner in relation to his academic studies, the

¹ We have thoroughly reviewed and considered each letter submitted, but discuss only a sampling of the letters in this decision.

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letters do not indicate they have a knowledge of cycling with which to make an informed opinion regarding the Petitioner's abilities as a coach. Both professors are of the opinion that the Petitioner has risen to the top of his field; however, they do not supply the rationale for their conclusion. While it is acknowledged that the authors have provided their support for this petition, it is unclear whether the letters reflect their independent observations and thus an informed and unbiased opinion of the Petitioner's work. In evaluating the record, the truth is to be determined not by the quantity of evidence alone but by its quality. *See Chawathe*, 25 I&N at 376.

The Petitioner also submitted a reference letter from [redacted] coach of the [redacted] and former coach of the [redacted] indicates that he met the Petitioner at the [redacted] training and states that, after completing the course, the Petitioner became "one of the key figures in [the] [redacted]" He also concludes that the Petitioner is "one of [the] top coaches in cycling in Iran and/or broader geographic area." Though we acknowledge this opinion, [redacted] does not provide context to support his conclusions. The opinions of the Petitioner's references are not without weight; however, we are ultimately responsible for making the final determination regarding an alien's eligibility for the benefit sought. *See Matter of Caron Int'l*, 19 I&N Dec. 791, 795 (Comm'r 1988). Thus, the content of references' statements and how they became aware of the Petitioner's reputation are important considerations. Specifically, USCIS need not accept primarily conclusory affirmations. *1756, Inc. v. Att'y Gen. of the United States*, 745 F. Supp. 9, 15 (D.D.C. 1990). In this case, [redacted] does not explain the bases for his evaluation of the Petitioner. Without more, the words of [redacted] are not persuasive proof of the Petitioner's abilities.

The Petitioner indicated that he "has created a training method that is new to the coaching of cyclists in Iran. This new method is one wherein the heart rate is monitored based on heart rate and time in the athlete instead of the distance." The Petitioner submitted two letters from club cycling coaches in Iran, each of whom credits the Petitioner with developing a heart-rate based training regimen. Though we do not doubt that the Petitioner has expanded the knowledge of coaches in Iran by informing them of updated training methods, the record does not contain objective, independent evidence to support the claim that he is responsible for the creation of the heart-rate based approach to training. In addition, the two letters that discuss this training method contain paragraphs of identical language, raising questions about the independence of their observations. Regarding the Petitioner's creation of a new training method, he cannot meet the burden of proof without credible supporting documentation. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm'r 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg'l Comm'r 1972)); *see also Chawathe*, 25 I&N Dec. 369, 376 (AAO 2010). The record does not contain an article or manual the Petitioner authored on this subject or similar corroboration of his development of this methodology. While the Petitioner did author an article on the psychological characteristics of Iranian cyclists, the Petitioner has not substantiated the impact of this article through, for example, citations or other corroboration of an impact in the field upon dissemination.

Lastly, the Petitioner provided a letter from [redacted] member of the [redacted] Management Board and the [redacted] Management Board. [redacted] also became aware of the Petitioner through his training at [redacted] He noted that the

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Petitioner was the first individual from Iran to attend the training. He also mentioned the Petitioner's work translating a book on cycling basics into Farsi, his work as a referee of cycling competitions, and his participation with an activity entitled "successful young people in sport." Work by the Petitioner on a documentary is not mentioned elsewhere in the record and is not corroborated by independent evidence. While the other activities are corroborated, [REDACTED] does not explain why they lead to his conclusion that the Petitioner has risen to the top of his field. For example, the Petitioner's work translating a text on cycling demonstrates his ability in two languages, including cycling terms, but is less probative of the Petitioner's extraordinary ability as a cycling coach than authorship of original material on the subject. Similarly, the Petitioner's work as a referee requires an understanding of the rules of the sport, but does not, however, indicate the Petitioner has reached the top of his field of endeavor.

Documentation from [REDACTED] confirms that the Petitioner was invited to participate in a three-day clinic held in [REDACTED] California. The record does not suggest, however, that invitations for clinic attendance were restricted to those at the very top of the field. As a result, this invitation does not illustrate that the Petitioner has extraordinary ability as a coach. Similarly, a letter from the coach of a [REDACTED] invites the Petitioner to assist him in coaching the team for June-July of 2014. Another letter from the [REDACTED] invites the Petitioner to assist in training its cyclist from March 2013 to 2014. However, the letters provide no information surrounding the circumstances of the invitations and the Petitioner does not indicate that he accepted them. Lastly, website postings reflect that on three occasions the Petitioner served as an instructor during a four-day third level mountain bike coaching course. All of these exhibits show the Petitioner is a competent coach. This visa classification is limited, however, to individuals who are part of that small percentage who have risen to the very top of the field of endeavor, 8 C.F.R. § 204.5(h)(2). These materials do not support the Petitioner's claim that he has reached this level of ability.

On appeal, the Petitioner provides the following argument:

In order to review the facts of this case, the officer must take into consideration the country of origin of the applicant. The country of which we speak is Iran, it may be a country wherein the people are enlightened and have a great desire to be "westernized." However, it is a country wherein the Islamic Republic rules, and everything including sports is under the controls of the Islamic Republic. Thus it would be unfair to compare the state of the cycling federation of Iran to that of the US, or any other country.

While the Petitioner need only demonstrate national acclaim and we understand the logic urged here by the Petitioner, this first preference extraordinary ability classification is reserved for the small percentage who have risen to the very top of the field. For the reasons stated above, the Petitioner has not made the requisite showing.

III. CONCLUSION

Although the Petitioner satisfied the requisite initial evidence required by regulation, the totality of the record does not confirm the Petitioner's extraordinary ability under section 203(b)(1)(A)(i) of the Act. The appeal will be dismissed for the above stated reasons, with each considered as an independent and alternate basis for the decision. In visa petition proceedings, it is the Petitioner's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). Here, the Petitioner has not met that burden.

ORDER: The appeal is dismissed.

Cite as *Matter of E-S-*, ID# 14833 (AAO May 19, 2016)