



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

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

MATTER OF I-A-

DATE: DEC. 22, 2017

APPEAL OF NEBRASKA SERVICE CENTER DECISION

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

The Petitioner, a taekwondo athlete, 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 of the Nebraska Service Center denied the Form I-140, Immigrant Petition for Alien Worker, concluding that the Petitioner had not received a major one-time award, and alternatively, had only satisfied one of the initial evidentiary criteria, of which he must meet at least three. Additionally, he determined that the Petitioner had not demonstrated that he was coming to continue to work in his claimed area of extraordinary ability.

On appeal, the Petitioner claims that he meets five criteria. He argues that the Director's decision was erroneous, did not address all of the claimed criteria, and was not supported by the record.¹ With his appeal, the Petitioner submits a brief and additional evidence.

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

I. LAW

Section 203(b)(1)(A) of the Act states:

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

¹ The Director denied the petition after issuing an RFE that only requested evidence relating to some of the adverse eligibility issues raised in the denial. The Petitioner asserts that the denial of the petition in this manner was in error. We note that 8 C.F.R. § 103.2(b)(8)(ii) states in pertinent part that USCIS "in its discretion may deny the benefit request for lack of initial evidence or for ineligibility or request that the missing initial evidence be submitted within a specified period of time as determined by USCIS."

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 two options for satisfying this classification's initial evidence requirements. First, a petitioner can demonstrate a one-time achievement (that is a major, internationally recognized award). Alternately, he or she must provide evidence that meets at least three of the 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 (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). This two-step analysis is consistent with our holding that the "truth is to be determined not by the quantity of evidence alone but by its quality," as well as the principle 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." *Matter of Chawathe*, 25 I&N Dec. 369, 376 (AAO 2010).

II. ANALYSIS

At the time of filing, the Petitioner was competing in taekwondo tournaments under the auspices of the [REDACTED]. The Director determined in his denial that the Petitioner's receipt of the gold medal at the 2016 [REDACTED] in Belarus, and his bronze medal at the 2015 [REDACTED] in Bulgaria as part of the [REDACTED] did not constitute the receipt of a major, internationally recognized award. *See* 8 C.F.R. § 204.5(h)(3). The Director noted that the selection of Nobel Laureates, the example provided by Congress², is reported in the top media internationally regardless of the nationality of the awardees,

² *See* H.R. Rep. No. 101-723, 59 (Sept. 19, 1990). The regulation is consistent with this legislative history, stating that a one-time achievement must be a major, internationally recognized award. 8 C.F.R. § 204.5(h)(3). Significantly, even lesser internationally recognized awards could serve to meet only one of the ten regulatory criteria, of which an alien

is a familiar name to the public at large, and includes a large cash prize. He also observed that while a major award could conceivably constitute a one-time achievement without meeting all of those elements, it is clear from the example provided by Congress that the award must be internationally recognized in the alien's field as one of the top awards in that field.

The Petitioner asserts on appeal that the Director determined that "only an Olympic medal would qualify under this criteria [as a major award] when [redacted] athletes are not eligible for the Olympics" in his denial. We disagree that the Director limited the pool of acceptable major awards to those garnered at Olympic events to meet this criterion. He simply concluded, by way of example that the Petitioner did not demonstrate that his medals had garnered the level of international recognition accorded to Olympic medal recipients.

The Petitioner has provided [redacted] constitution, bylaws, and other evidence which shows that the two events in which the Petitioner's received medals are international in scope, as competitors from many nations participated in the proceedings. However, the submitted [redacted] material discussing the Petitioner's receipt of the medals, to include a transcript of a television interview with him on [redacted] and articles in [redacted] and [redacted], do not establish that his receipt of these medals was covered by the international press in a manner commensurate with his receipt of a major award. *Id.* News coverage of a prize or award that appears to be local or national in nature, and does not reflect recognition by the general public cannot, by itself, establish that the prize or award is a major internationally recognized award. *Rijal v. U.S. Citizenship & Immigration Services*, 772 F. Supp. 2d 1339 (W.D. Wash. 2011) *aff'd*, 683 F.3d 1030 (9th Cir. June 13, 2012) (finding that conclusion not to be arbitrary or capricious).

Considering the entire record, we affirm the Director's determination that the Petitioner failed to provide evidence to establish that his medals qualify as a one-time achievement that is, a major, internationally recognized award. Because he has not 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) to meet the initial evidentiary requirements.

A. Evidentiary Criteria

In his denial, the Director found that while the Petitioner met the lesser awards criterion at 8 C.F.R. § 204.5(h)(3)(i), he did not meet the membership, published material, and judging criteria described in 8 C.F.R. § 204.5(h)(3). He did not address the Petitioner's assertion that he met the artistic display criteria specified at 8 C.F.R. § 204.5(h)(3)(vii).

On appeal, the Petitioner claims that he meets the following criteria: awards at 8 C.F.R. § 204.5(h)(3)(i), membership at 8 C.F.R. § 204.5(h)(3)(ii), published material at 8 C.F.R.

must meet at least three. 8 C.F.R. § 204.5(h)(3)(i).

§ 204.5(h)(3)(iii), judging at 8 C.F.R. § 204.5(h)(3)(iv), and display at 8 C.F.R. § 204.5(h)(3)(vii).³ He maintains that he has demonstrated his sustained national or international acclaim and that he is among the small percentage at the very top of the field of endeavor. Upon review of all of the evidence, we conclude that it does not support a finding that the Petitioner meets the plain language requirements of at least three 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 submitted documentation showing that he won international championship medals at [REDACTED] events in Belarus and Bulgaria in 2015 and 2016, respectively. Accordingly, he has 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 asserts that he meets this criterion based upon his selection as a member of the [REDACTED] and the [REDACTED]. He also emphasizes the expertise of the individuals who selected him for his team memberships, and in the case of the [REDACTED] the competitive titles that have been won by other members on the team. The record shows that the Petitioner won various competitions as a youth participant on the [REDACTED] team. The letter from [REDACTED] president of the [REDACTED] describes his own expertise as a leader of the taekwondo sport in Tajikistan. He comments on the Petitioner's taekwondo skills, noting that he is one of the strongest contenders that he has ever worked with. The record, however, does not include supporting evidence showing that membership on this team required outstanding achievements.

Likewise, the Petitioner notes that [REDACTED] president of the [REDACTED] and [REDACTED] the head coach of the [REDACTED] observed him participate in various competitive events while he was a student in the United States. Subsequently, the Petitioner was invited to participate as a member of the [REDACTED] and won awards as a team member at [REDACTED] competitions. He provides a letter from [REDACTED] in which he asks permission of [REDACTED] (his Tajikistan mentor) to allow the Petitioner to participate on the [REDACTED]

³ The Petitioner has also requested the consideration of his recommendation letters, [REDACTED] refereeing and coaching experience, and the display of his martial arts skills at international competitions as comparable evidence to establish his eligibility. However, he has not demonstrated why a specific criterion is not readily applicable to his occupation, and how the submitted evidence is comparable to that criterion. While we will not consider this material separately as comparable evidence under 8 C.F.R. § 204.5(h)(4), we will review the entire record to determine the Petitioner's eligibility for the benefit sought.

█ also provided a letter of support, and writes that he expects the Petitioner to be a member of the team for many years, due to his talent and skills. However, the Petitioner has not provided supporting evidence showing that membership on this team required outstanding achievements.

The Petitioner must show that he meets every element of a given criterion, including that he is a member of a team that requires outstanding achievements of its members, as judged by recognized national or international experts. We will not presume that every national “team” is sufficiently exclusive. Here, the Petitioner has not sufficiently demonstrated the procedures utilized for his selection on the teams upon which he is basing his claim under 8 C.F.R. § 204.5(h)(3)(ii). Therefore, he has not met this criterion.

Published material about the alien in professional or major trade publications or other major media, relating to the alien’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. 8 C.F.R. § 204.5(h)(3)(iii).

The Petitioner submitted an article, entitled ‘█’ which appeared on the █ website, in which the author interviewed him after he won a medal at the 2016 █. In 2013, he was interviewed by █ in an article entitled ‘█’. He was also interviewed in 2013 by █ which is a Tajikistan sports periodical. The articles all discuss his success and progress in developing his taekwondo skills. He also documented a television interview by a Tajikistan █ station, █ in 2012 at the age of 16, in which he recounted his accomplishments as a youth participant at taekwondo events.

On appeal, the provides webpages from █ a subsidiary of █ com, that audits and makes public the frequency of visits on various websites. According to the █ statistics provided, █ and █ ranked █ and █ respectively, in frequency of traffic as an online media outlet in Tajikistan. The full list of websites included in the rankings presented and the number of visits to each website was not provided. The Petitioner has not provided sufficient evidence to show that these web-based outlets are “Tajikistan’s leading information portal[s]” and qualify as major media as claimed.⁴

Moreover, while documentation has been provided to show that █ is a █ station in Tajikistan, insufficient evidence has been submitted regarding its reputation as a media outlet, its target audience, and the size of its viewership to show that it qualifies as major media

⁴ USCIS need not rely on the self-promotional material of the publisher. *See Braga v. Poulos*, No. CV 06 5105 SJO (C. D. CA July 6, 2007) *aff’d* 2009 WL 604888 (9th Cir. 2009) (concluding that self-serving assertions on the cover of a magazine as to the magazine’s status is not reliable evidence of major media).

under this criterion. Additionally, though the Petitioner maintains that [REDACTED] is one of “the [REDACTED] most popular publications in Tajikistan”, its webpage simply states that it is published twice weekly and is nationally distributed. While websites are technically accessible nationally and even internationally, we will not assume that every website has significant national or international viewership. The act of posting an article online does not necessarily constitute publication in major media. The materials relating to [REDACTED] do not indicate that this website routinely attracts national or international attention, or otherwise qualifies as major media. Accordingly, he has not established that he meets this regulatory criterion.

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. 8 C.F.R. § 204.5(h)(3)(iv).

The record reflects that the Petitioner was awarded certificates for “refereeing” at four youth competitions in 2011 and 2012, in Russia, Kazakhstan, and Tajikistan, when he was 15 or 16 years old. He indicates that he was selected to perform these tasks because of his “experience and intricate knowledge of the rules.” He further notes, “the competitions were local, national, and international, with competitors from different countries there. Not only did I enforce the rules, I also was involved in selecting the winners.” The Petitioner did not submit sufficient documentary evidence establishing his duties as a “judge” at these competitions. We also note that his refereeing activities were limited to youth matches, not as a judge of adult participants who are “others working in the field” for the purposes of this criterion.

Further, the [REDACTED] bylaws provide on page 3 that an umpire training course must be developed and utilized to ensure that umpires are qualified to the “umpire level with the main focus on the umpires who should referee in...international tournaments.” The bylaws also specify on page 17 that:

[REDACTED]

The Petitioner’s statements regarding his performance as a referee and judge of others in the field at national and international tournaments are incongruous with the requirements for umpires specified in the [REDACTED] by-laws. The record contains insufficient evidence that he received the training the [REDACTED] requires for such duties, or that he had met the requisite [REDACTED]

[REDACTED] While the Petitioner may have acted informally as a referee as a youth, he has not demonstrated that he has satisfied his own organization’s requirements to act as a judge in its tournaments. For these reasons, the Petitioner has not met this criterion.

Evidence of the display of the alien's work in the field at artistic exhibitions or showcases. 8 C.F.R. § 204.5(h)(3)(vii).

Various forms of artistic display may satisfy this criterion's requirements. As a result, we evaluate the nature of the display. According to the plain language of this criterion, the exhibition or showcase must be artistic in nature. The arts may include visual art, the performing arts, music, graphic art, and other examples of the fine arts. And, just as the event must be artistic, the evidence must also demonstrate the artistic nature of a petitioner's work displayed at the event. It is not necessary for a petitioner to show that their work was specifically highlighted in any promotional materials or credits; only that his or her work was on display, and that both the work and the event were artistic in nature.

The Petitioner maintains that since he has participated in a variety of taekwondo competitions internationally his "work has been and is continuously displayed in more than one country." However, he has not established that his work was displayed at "artistic exhibitions or showcases." The Petitioner has not demonstrated that he meets the plain language of this criterion.

III. CONCLUSION

The Petitioner is not eligible because he has not submitted the required initial evidence of either a qualifying one-time achievement or documents that meet at least three of the ten criteria listed at 8 C.F.R. § 204.5(h)(3)(i)-(x). Thus, we do not need to fully address the totality of the materials in a final merits determination. *Kazarian*, 596 F.3d at 119-20. Nevertheless, we advise that we have reviewed the record in the aggregate, concluding that it does not support a finding that the Petitioner has established the level of expertise required for the classification sought. In addition, as the Petitioner has not established his extraordinary ability under section 203(b)(1)(A)(i) of the Act, we need not determine whether he is coming to "continue work in the area of extraordinary ability" under section 203(b)(1)(A)(ii).

ORDER: The appeal is dismissed.

Cite as *Matter of I-A-*, ID# 698645 (AAO Dec. 22, 2017)